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The Student's History of the Middle Ages.

VIEW

OF

THE STATE OF EUROPE

DURING

THE MIDDLE AGES.

By HENRY HALLAM, LL.D., F.R.A.S.,

INCORPORATING IN THE TEXT THE AUTHOR'S LATEST RESEARCHES, WITH ADDITIONS FROM RECENT WRITERS, AND ADAPTED TO THE USE OF STUDENTS.

By WILLIAM SMITH, D.C.L., LL.D.

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PREFACE.

THE present Edition of the 'History of the Middle Ages' has been undertaken with the concurrence of Mr. Hallam's representatives, who consider that a great injustice has been done to his literary character by the reprint of the obsolete edition of 1816, after it had been superseded by the Author's own careful revision, and had been enriched by many supplemental notes, which added one-third to the original size of the Work.

A few words are necessary to explain the plan which the Editor has adopted in order to bring the Work within one volume, available for the use of Students. It must not be regarded as an Abridgment; for though some omissions have been made, for reasons stated below, they are few in amount, and nothing essential or important has been left out. In fact, the great bulk of the book remains unchanged. But it is necessary to recollect the plan which Mr. Hallam pursued in the later editions of his Work, in order to judge of the necessity and expediency of the alterations and omissions made in this Edition. He informed his readers, in the Preface to his 'Supplemental Notes,' "That he was always reluctant to make such alterations as would leave to the purchasers of former editions a right to complain," and that being anxious to bring his Work "nearer to the boundaries of the historic domain, as it had been enlarged within his own age," he published in a separate form various disquisitions, in which his object was "to reconsider those portions of the Work which related to subjects discussed by eminent writers since its publication, to illustrate and enlarge some passages which had been imperfectly or obscurely treated, and to acknowledge with freedom his own errors." Now, however much we may respect the Author's motives in adopting this method, and his candour in acknowledging his errors, the plan is attended with the

obvious inconvenience of having two books to consult instead of one, and of finding statements in the Text not unfrequently contradicted or modified by corrections in the Notes. Accordingly, in preparing the book for the use of Students, it seemed to the Editor advisable to incorporate in the text the corrections made in the notes, omitting such views as the Author had himself rejected, and only inserting in the Supplemental Notes at the end of each chapter the information which could not conveniently be interwoven with the text. By this means, and by giving the conclusions at which the Author had arrived, without, in all cases, enumerating the opinions of writers which he mentioned only to reject, much space has been saved. Moreover, a further saving has been effected, by occasionally abbreviating some of the less important remarks, and by leaving out most of the notes at the foot of the pages containing reference to authorities, which, however serviceable to historical inquirers, can be of no use to Students in Schools and Colleges.

The Editor has added to the chapter on the Constitutional History of England various original documents, which will be of great service to the student. Of these, the most important are, the Statutes of William the Conqueror, the Charter of Liberties of Henry I., the Constitutions of Clarendon, and the Assize of Clarendon, the Magna Charta and the Confirmation of the Charters. He has also inserted genealogical and other Tables, and has supplied some information from important works treating of the subjects discussed by Mr. Hallam, which have appeared since the last edition of his book. But such alterations and additions have been made sparingly, and it has been the aim of the Editor to present the Work as nearly as possible in the form in which he conceives the Author would have wished it to appear, if he had himself prepared an edition for the special use of Students.

WM. SMITH.

LONDON, *May* 10, 1871.

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THE STUDENT'S

HISTORY OF THE MIDDLE AGES.

CHAPTER I.

THE HISTORY OF FRANCE, FROM ITS CONQUEST BY CLOVIS TO THE INVASION OF NAPLES BY CHARLES VIII.

PART I.

§ 1. Fall of the Roman Empire. § 2. Invasion of Clovis. § 3. The MEROVINGIANS, or first Race of French Kings. Accession of Pepin. § 4. The CARLOVINGIANS. State of Italy. § 5. Charlemagne. His Reign. § 6. His Coronation as Emperor. § 7. His Character. § 8. Louis the Debonair. § 9. His Successors. § 10. Remarks upon the Carlovingian Period. § 11. Calamitous State of the Empire in the Ninth and Tenth Centuries. § 12. The Hungarians. § 13. The Normans. § 14. Accession of Hugh Capet. § 15. His first Successors. § 16. Louis VII. § 17. Philip Augustus. Conquest of Normandy. § 18. War in Languedoc. § 19. Louis IX. His Character. § 20. Digression upon the Crusades. § 21. Philip III. § 22. Philip IV. Aggrandizement of French Monarchy under his Reign. § 23. Suppression of the Knights Templars. § 24. Reigns of his Children. Question of Salic Law. § 25. Claim of Edward III.

§ 1. BEFORE the conclusion of the fifth century the mighty fabric of empire which valour and policy had founded upon the seven hills of Rome was finally overthrown in all the west of Europe by the barbarous nations from the north, whose martial energy and whose numbers were irresistible. A race of men, formerly unknown or despised, had not only dismembered that proud sovereignty, but permanently settled themselves in its fairest provinces, and imposed their yoke upon the ancient possessors. The Vandals were masters of Africa; the Suevi held part of Spain; the Visigoths possessed the remainder, with a large portion of Gaul; the Burgundians occupied the provinces watered by the Rhone and Saône; the Ostrogoths almost all Italy. The north-west of Gaul, between the Seine and the Loire, some writers have filled with an Armorican republic;[1] while the remainder was still nominally subject to the Roman

[1] See NOTE I. 'The Armorican Republic.'

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Empire, and governed by a certain Syagrius, rather with an independent than a deputed authority.

§ 2. At this time Clovis, king of the Salian Franks,[2] a tribe of Germans long connected with Rome, and originally settled upon the right bank of the Rhine, but who had latterly penetrated as far as Tournay and Cambray, invaded Gaul, and defeated Syagrius at Soissons (A.D. 486). The result of this victory was the subjugation of those provinces which had previously been considered as Roman. But as their allegiance had not been very strict, so their loss was not very severely felt; since Anastasius, the Emperor of Constantinople, was not too proud to confer upon Clovis the titles of consul and patrician, which he was too prudent to refuse.[3]

§ 3. Clovis was the founder of the MEROVINGIAN dynasty. But the history of this period is so intricate, that it may assist the memory to distribute it into the following divisions:

I. *The reign of Clovis* (A.D. 481–511).—Some years after his recognition by the Emperor, Clovis defeated the Alemanni, or Suabians, in a great battle at Zulpich, near Cologne. In consequence of a vow, it was said, made during this engagement, and at the instigation of his wife Clotilda, a princess of Burgundy, he became a convert to Christianity (A.D. 496). It would be a fruitless inquiry whether he was sincere in this change; but it is certain, at least, that no policy could have been more successful. The Arian sect, which had been early introduced among the barbarous nations, was predominant, though apparently without intolerance, in the Burgundian and Visigoth courts; but the clergy of Gaul were strenuously attached to the Catholic side, and, even before his conversion, had favoured the arms of Clovis. They now became his most zealous supporters, and were rewarded by him with artful gratitude, and by his descendants with lavish munificence. Upon the pretence of religion he attacked Alaric, king of the Visigoths, and by one great victory near Poitiers, overthrowing their empire in Gaul, reduced them to the maritime province of Septimania, a narrow strip of coast between the Rhone and the Pyrenees (A.D. 507). The last exploits of Clovis were the reduction of certain independent chiefs of his own tribe and family, who were settled in the neighbourhood of the Rhine. All these he put to death by force or treachery; for he was cast in the true mould of conquerors, and may justly be ranked among the first of his class, both for the splendour and the guiltiness of his ambition.

II. *The reigns of the four sons of Clovis* (A.D. 511–561).—Clovis left four sons; one illegitimate, or at least born before his conversion; and three by his queen Clotilda. These four made, it is said, an equal partition of his dominions, which comprehended not only

[2] See NOTE II. 'The Franks.' [3] See NOTE III. 'The Consulship of Clovis.'

France, but the western and central parts of Germany, besides Bavaria, and perhaps Suabia, which were governed by their own dependent, but hereditary, chiefs. Thierry, the eldest, had what was called Austrasia, the eastern or German division, and fixed his capital at Metz; Clodomir, at Orleans; Childebert at Paris; and Clotaire, at Soissons. During their reigns the monarchy was aggrandized by the conquest of Burgundy, and Provence, in Gaul itself, while Thuringia, Suabia, and Bavaria, on the other side of the Rhine, were added to their dominions. Clotaire, the youngest brother, ultimately reunited all the kingdoms.

III. *From the death of Clotaire I. to the accession of Clotaire II.* (A.D. 561–613).—Upon the death of Clotaire I. a second partition among his four sons ensued: the four kingdoms of Paris, Soissons, Orleans, and Austrasia revived; but a new partition of these was required by the recent conquests, and Gontran of Orleans, without resigning that kingdom, removed his residence to Burgundy. The four kingdoms were reduced to three by the death of Caribert, king of Paris; one, afterwards very celebrated by the name of Neustria, between the Scheldt and the Loire, was formed under Chilperic, comprehending those of Paris and Soissons. Caribert of Paris had taken Aquitaine, which at his death was divided among the three survivors; Austrasia was the portion of Sigebert. This generation was fruitful of still more crimes than the last, redeemed by no golden glory of conquest. Fredegonde, the wife of Chilperic, diffused a baleful light over this period. But while she tyrannized with little control in the west of France, her rival and sister in crime, Brunehaut, wife of Sigebert and mother of Thierry II., his successor, had to encounter a powerful opposition from the Austrasian aristocracy; and in this part of the monarchy a new feature developed itself; the great proprietors, or nobility, acted systematically with a view to restrain the royal power. Brunehaut, after many vicissitudes, and after having seen her two sons on the thrones of Austrasia and Burgundy, fell into the hands of Clotaire II., king of the other division, and was sentenced to a cruel death.[4] Clotaire united the three Frank kingdoms.

[4] The names of Fredegonde and Brunehaut are distinguished even in that age for the magnitude of their crimes; of the atrocities of Fredegonde none have doubted; and Brunehaut has met with advocates in modern times, less, perhaps, from any fair presumptions of her innocence than from compassion for the cruel death which she underwent. Brunehaut was no unimportant personage in this history. She had become hateful to the Austrasian aristocracy by her Gothic blood, and still more by her Roman principles of government. There was evidently a combination to throw off the yoke of civilized tyranny. It was a great conflict, which ended in the virtual dethronement of the house of Clovis. Much, therefore, may have been exaggerated by Fredegarius, a Burgundian by birth, in relating the crimes of Brunehaut. But, unhappily, the antecedent presumption, in the history of that age, is always on the worse side. She was unquestionably endowed with a masculine energy of mind, and very superior to such a mere imp of audacious wickedness as

IV. *Reigns of Clotaire II. and his son Dagobert I.* (A.D. 613–638).—The royal power, though shaken by the Austrasian aristocracy, was still effective. Dagobert, a prince who seems to have rather excelled most of his family, and to whose munificence several extant monuments of architecture and the arts are referred, endeavoured to stem the current. He was the last of the Merovingians who appears to have possessed any distinctive character.

V. *From the accession of Clovis II., son of Dagobert, to Pepin Heristal's victory over the Neustrians at Testry* (A.D. 638–687).—After Dagobert the kings of France dwindled into personal insignificance, and are generally treated by later historians as insensati, or idiots. The whole power of the kingdom devolved upon the mayors of the palace, originally officers of the household, through whom petitions or representations were laid before the king.[5] The weakness of sovereigns rendered this office important, and still greater weakness suffered it to become elective; men of energetic talents and ambition united it with military command; and the history of France for half a century presents no names more conspicuous than those of Ebroin and Grimoald, mayors of Neustria and Austrasia, the western and eastern divisions of the French monarchy.[6] These, however, met with violent ends; but a more successful usurper of the royal authority was Pepin Heristal, first mayor, and afterwards duke, of Austrasia. After becoming the acknowledged head of this part of the kingdom, he put an end to the independence of Neustria also by the decisive battle of Testry, fought in 687. The battle of Testry is one of the turning points in French history. It gave the death-blow to Merovingian royalty: it brought to a termination the struggle between the two great members of the Frank empire; it assured the preponderance of Teutonic over Roman Gaul. Pepin fixed his residence at Cologne, and his family seldom kept their court at Paris. The kingdoms of Austrasia and Neustria rested on different bases. In the former the Franks were more numerous, less scattered, and, as far as we can perceive, had a more considerable nobility. They had received a less tincture of Roman policy. They were nearer to the mother country, which had been, as the earth to Antæus, the source of perpetually recruited vigour. Bur-

Fredegonde. Brunehaut left a great and almost fabulous name; public causeways, towers, castles, in different parts of France, are popularly ascribed to her. It has even been suspected by some that she suggested the appellation of Brunechild in the Nibelungen Lied. That there is no resemblance in the story, or in the character, courage excepted, of the two heroines, cannot be thought an objection.

[5] See NOTE IV. 'The Mayor of the Palace.'

[6] The original kingdoms of Soissons, Paris, and Orleans were consolidated into that denominated Neustria, to which Burgundy was generally appendant, though distinctly governed by a mayor of its own election. But Aquitaine was, from the time of Dagobert I., separated from the rest of the monarchy, under a ducal dynasty, sprung from Aribert, brother of that monarch. See NOTE V. 'Aquitaine.'

gundy, a member latterly of the Neustrian monarchy, had also a powerful aristocracy, but not in so great a degree, probably, of Frank, or even barbarian descent. It is highly important to keep in mind this distinction between Austrasia and Neustria, subsisting for some ages, and, in fact, only replaced, speaking without exact geographical precision, by that of Germany and France.

VI. *From the battle of Testry to the accession of Pepin le Bref* (A.D. 687-752).—From this time the family of Pepin was virtually sovereign in France, though at every vacancy kings of the royal house were placed by them on the throne. Charles Martel, indeed, son of Pepin, was not acknowledged, even in Austrasia, for a short time after his father's death, and Neustria attempted to regain her independence; but he was soon called to power, defeated, like his father, the western Franks, and became, in almost as great a degree as his grandson, the founder of a new monarchy. But in 732 he was called upon to encounter a new and terrible enemy. The Saracens, after subjugating Spain, had penetrated into the very heart of France. Charles Martel gained a complete victory over them between Tours and Poitiers, in which 300,000 Mohammedans are hyperbolically asserted to have fallen. The reward of this victory was the province of Septimania, which the Saracens had conquered from the Visigoths.[7]

Such powerful subjects were not likely to remain long contented without the crown; but the circumstances under which it was transferred from the race of Clovis are connected with one of the most important revolutions in the history of Europe. The mayor Pepin, surnamed le Bref, to distinguish him from his grandfather, inheriting his father Charles Martel's talents and ambition, made, in the name and with the consent of the nation, a solemn reference to the pope Zacharias, as to the deposition of Chilperic III., under whose nominal authority he himself was reigning. The decision was favourable; that he who possessed the power should also bear the title of king. The unfortunate Merovingian was dismissed into a convent, and the Franks, with one consent, raised Pepin to the throne, the founder of a more illustrious dynasty (A.D. 752). In order to judge of the importance of this revolution to the see of

[7] The victory of Charles Martel has immortalized his name, and may justly be reckoned among those few battles of which a contrary event would have essentially varied the drama of the world in all its subsequent scenes; with Marathon, Arbela, the Metaurus, Châlons, and Leipsic. Yet do we not judge a little too much by the event, and follow, as usual, in the wake of fortune? Has not more frequent experience condemned those who set the fate of empires upon a single cast, and risk a general battle with invaders, whose greater peril is in delay? Was not this the fatal error by which Roderic had lost his kingdom? Was it possible that the Saracens could have retained any permanent possession of France, except by means of a victory? And did not the contest upon the broad champaign of Poitou afford them a considerable prospect of success, which a more cautious policy would have withheld?

Rome, as well as to France, we must turn our eyes upon the affairs of Italy.

§ 4. THE CARLOVINGIANS.—The dominion of the Ostrogoths was annihilated by the arms of Belisarius and Narses in the sixth century, and that nation appears no more in history. But not long afterwards the Lombards, a people for some time settled in Pannonia, not only subdued that northern part of Italy which has retained their name, but, extending themselves southward, formed the powerful duchies of Spoleto and Benevento. The residence of their kings was in Pavia; but the hereditary vassals, who held those two duchies, might be deemed almost independent sovereigns. The rest of Italy was governed by exarchs, deputed by the Greek emperors, and fixed at Ravenna. In Rome itself neither the people nor the bishops, who had already conceived in part their schemes of ambition, were much inclined to endure the superiority of Constantinople; yet their disaffection was counterbalanced by the inveterate hatred, as well as jealousy, with which they regarded the Lombards. But an impolitic and intemperate persecution, carried on by two or three Greek emperors against a favourite superstition, the worship of images, excited commotions throughout Italy, of which the Lombards took advantage, and easily wrested the exarchate of Ravenna from the eastern empire (A.D. 752). It was far from the design of the popes to see their nearest enemies so much aggrandized; and any effectual assistance from the emperor Constantine Copronymus would have kept Rome still faithful. But having no hope from his arms, and provoked by his obstinate intolerance, the pontiffs had recourse to France; and the service they had rendered to Pepin led to reciprocal obligations of the greatest magnitude. At the request of Stephen II. the new king of France descended from the Alps, drove the Lombards from their recent conquests, and conferred them upon the pope. This memorable donation nearly comprised the modern provinces of Romagna and the March of Ancona.

§ 5. CHARLEMAGNE (A. D. 768-814).—The state of Italy, which had undergone no change for nearly two centuries, was now rapidly verging to a great revolution. Under the shadow of a mighty name the Greek empire had concealed the extent of its decline. That charm was now broken; and the Lombard kingdom, which had hitherto appeared the only competitor in the lists, proved to have lost its own energy in awaiting the occasion for its display. France was far more than a match for the power of Italy, even if she had not been guided by the towering ambition and restless activity of the son of Pepin. It was almost the first exploit of Charlemagne, after the death of his brother Carloman had reunited the Frankish empire under his dominion, to subjugate the kingdom of Lombardy (A.D. 774). Neither Pavia nor Verona, its most considerable cities,

interposed any material delay to his arms; and the chief resistance he encountered was from the dukes of Friuli and Benevento, the latter of whom could never be brought into thorough subjection to the conqueror. Italy, however, be the cause what it might, seems to have tempted Charlemagne far less than the dark forests of Germany. For neither the southern provinces, nor Sicily, could have withstood his power if it had been steadily directed against them. Even Spain hardly drew so much of his attention as the splendour of the prize might naturally have excited. He gained, however, a very important accession to his empire, by conquering from the Saracens the territory contained between the Pyrenees and the Ebro. This was formed into the Spanish March, governed by the count of Barcelona, part of which at least must be considered as appertaining to France till the twelfth century.

But the most tedious and difficult achievement of Charlemagne was the reduction of the Saxons. The wars with this nation, who occupied nearly the modern circles of Westphalia and Lower Saxony lasted for thirty years. Whenever the conqueror withdrew his armies, or even his person, the Saxons broke into fresh rebellion, which his unparalleled rapidity of movement seldom failed to crush without delay. From such perseverance on either side, destruction of the weaker could alone result. A large colony of Saxons were finally transplanted into Flanders and Brabant, countries hitherto ill-peopled, in which their descendants preserved the same unconquerable spirit of resistance to oppression. Many fled to the kingdoms of Scandinavia, and, mingling with the Northmen, who were just preparing to run their memorable career, revenged upon the children and subjects of Charlemagne the devastation of Saxony. The remnant embraced Christianity, their aversion to which had been the chief cause of their rebellions, and acknowledged the sovereignty of Charlemagne—a submission which even Witikind, the second Arminius of Germany, after such irresistible conviction of her destiny, did not disdain to make. But they retained, in the main, their own laws; they were governed by a duke of their own nation, if not of their own election; and for many ages they were distinguished by their original character among the nations of Germany.[8]

The successes of Charlemagne on the eastern frontier of his empire against the Sclavonians of Bohemia and Huns or Avars of Pannonia, though obtained with less cost, were hardly less eminent. In all his wars the newly conquered nations, or those whom fear had made dependent allies, were employed to subjugate their neighbours, and the incessant waste of fatigue and the sword was supplied by a fresh

[8] See NOTE VI. 'The Subjection of the Saxons.'

population that swelled the expanding circle of dominion. The limits of the new western empire are not very exactly defined by contemporary writers, nor would it be easy to appreciate the degree of subjection in which the Sclavonian tribes were held. As an organized mass of provinces, regularly governed by imperial officers, it seems to have been nearly bounded, in Germany, by the Elbe, the Saale, the Bohemian mountains, and a line drawn from thence crossing the Danube above Vienna, and prolonged to the Gulf of Istria. Part of Dalmatia was comprised in the Duchy of Friuli. In Italy the empire extended not much beyond the modern frontier of Naples, if we exclude, as was the fact, the duchy of Benevento from anything more than a titular subjection. The Spanish boundary, as has been said already, was the Ebro.

§ 6. A seal was put to the glory of Charlemagne when Leo III., in the name of the Roman people, placed upon his head the imperial crown (A.D. 800). His father, Pepin, had borne the title of Patrician, and he had himself exercised, with that title, a regular sovereignty over Rome. Money was coined in his name, and an oath of fidelity was taken by the clergy and people. But the appellation of Emperor seemed to place his authority over all his subjects on a new footing. It was full of high and indefinite pretension, tending to overshadow the free election of the Franks by a fictitious descent from Augustus. A fresh oath of fidelity to him as emperor was demanded from his subjects.[9]

§ 7. In analyzing the characters of heroes it is hardly possible to separate altogether the share of fortune from their own. The epoch made by Charlemagne in the history of the world, the illustrious families which prided themselves in him as their progenitor, the very legends of romance, which are full of his fabulous exploits, have cast a lustre around his head, and testify the greatness that has embodied itself in his name. None, indeed, of Charlemagne's wars can be compared with the Saracenic victory of Charles Martel; but *that* was a contest for freedom, *his* for conquest; and fame is more partial to successful aggression than to patriotic resistance. As a scholar, his acquisitions were probably little superior to those of his unrespected son; and in several points of view the glory of Charlemagne might be extenuated by an analytical dissection. But rejecting a mode of judging equally uncandid and fallacious, we shall find that he possessed in everything that grandeur of conception which distinguishes extraordinary minds. Like Alexander, he seemed born for universal innovation: in a life restlessly active, we see him reforming the coinage and establishing the legal divisions of money; gathering about him the learned of every country; founding schools and collecting libraries; interfering, but with the tone of

[9] See NOTE VII. 'Charlemagne, Emperor.'

a king, in religious controversies; aiming, though prematurely, at the formation of a naval force; attempting, for the sake of commerce, the magnificent enterprise of uniting the Rhine and Danube; and meditating to mould the discordant codes of Roman and barbarian laws into an uniform system.

The great qualities of Charlemagne were, indeed, alloyed by the vices of a barbarian and a conqueror. Nine wives, whom he divorced with very little ceremony, attest the licence of his private life, which his temperance and frugality can hardly be said to redeem. Unsparing of blood, though not constitutionally cruel, and wholly indifferent to the means which his ambition prescribed, he beheaded in one day four thousand Saxons—an act of atrocious butchery, after which his persecuting edicts, pronouncing the pain of death against those who refused baptism, or even who ate flesh during Lent, seem scarcely worthy of notice. This union of barbarous ferocity with elevated views of national improvement might suggest the parallel of Peter the Great. But the degrading habits and brute violence of the Muscovite place him at an immense distance from the restorer of the empire.

A strong sympathy for intellectual excellence was the leading characteristic of Charlemagne, and this undoubtedly biassed him in the chief political error of his conduct—that of encouraging the power and pretensions of the hierarchy. But, perhaps, his greatest eulogy is written in the disgraces of succeeding times and the miseries of Europe. He stands alone, like a beacon upon a waste, or a rock in the broad ocean. His sceptre was the bow of Ulysses, which could not be drawn by any weaker hand. In the dark ages of European history the reign of Charlemagne affords a solitary resting-place between two long periods of turbulence and ignominy, deriving the advantages of contrast both from that of the preceding dynasty and of a posterity for whom he had formed an empire which they were unworthy and unequal to maintain.

§ 8. LOUIS THE DEBONAIR (A.D. 814–840).—Under this prince, called by the Italians the Pious, and by the French the Debonair, or good-natured,[10] the mighty structure of his father's power began rapidly to decay. I do not know that Louis deserves so much contempt as he has undergone; but historians have in general more indulgence for splendid crimes than for the weaknesses of virtue. There was no defect in Louis's understanding or courage; he was accomplished in martial exercises, and in all the learning which an education, excellent for that age, could supply. No one was ever more anxious to reform the abuses of administration; and whoever compares his capitularies with those of Charlemagne will perceive

[10] These names meant the same thing. *Pius* had, even in good Latin, the sense of *mitis*, meek, forbearing, or what the French call *débonnaire*.

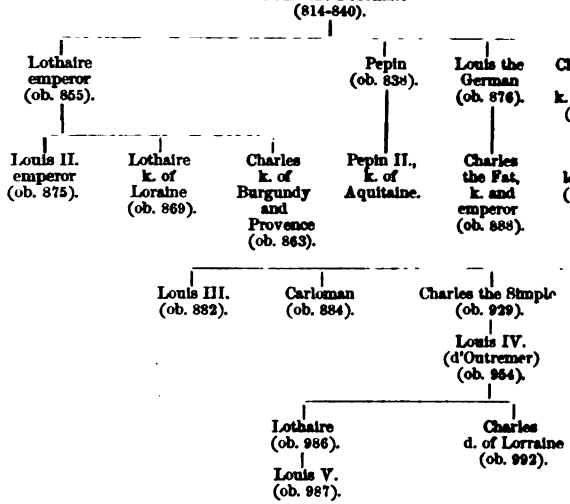
that, as a legislator, he was even superior to his father. The fault lay entirely in his heart; and this fault was nothing but a temper too soft and a conscience too strict. It is not wonderful that the empire should have been speedily dissolved; a succession of such men as Charles Martel, Pepin, and Charlemagne could alone have preserved its integrity; but the misfortunes of Louis and his people were immediately owing to the following errors of his conduct.

Soon after his accession Louis thought fit to associate his eldest son, Lothaire, to the empire, and to confer the provinces of Bavaria and Aquitaine, as subordinate kingdoms, upon the two younger, Louis and Pepin, A.D. 817. The step was, in appearance, conformable to his father's policy, who had acted towards himself in a similar manner. But such measures are not subject to general rules, and exact a careful regard to characters and circumstances. The principle, however, which regulated this division, was learned from Charlemagne, and could alone, if strictly pursued, have given unity and permanence to the empire. The elder brother was to preserve his superiority over the others, so that they should neither make peace nor war, nor even give answer to ambassadors, without his consent. Upon the death of either no further partition was to be made; but whichever of his children might become the popular choice was to inherit the whole kingdom, under the same superiority of the head of the family. This compact was, from the beginning, disliked by the younger brothers; and an event, upon which Louis does not seem to have calculated, soon disgusted his colleague Lothaire. Judith of Bavaria, the emperor's second wife, an ambitious woman, bore him a son, by name Charles, whom both parents were naturally anxious to place on an equal footing with his brothers. But this could only be done at the expense of Lothaire, who was ill disposed to see his empire still further dismembered for this child of a second bed. Louis passed his life in a struggle with three undutiful sons, who abused his paternal kindness by constant rebellions.

These were rendered more formidable by the concurrence of a different class of enemies, whom it had been another error of the emperor to provoke. Charlemagne had assumed a thorough control and supremacy over the clergy; and his son was perhaps still more vigilant in chastising their irregularities, and reforming their rules of discipline. But to this, which they had been compelled to bear at the hands of the first, it was not equally easy for the second to obtain their submission. Louis therefore drew on himself the inveterate enmity of men who united with the turbulence of martial nobles a skill in managing those engines of offence which were peculiar to their order, and to which the implicit devotion of his character laid

him very open. Yet, after many vicissitudes of fortune, and many days of ignominy, his wishes were eventually accomplished.

SUCCESSORS OF LOUIS THE DEBONAIR.



§ 9. Upon the death of Louis the Debonair, his youngest son, Charles, surnamed the Bald, obtained most part of France, while Germany fell to the share of Louis, and the rest of the imperial dominions, with the title, to the eldest, Lothaire. This partition was the result of a sanguinary, though short, contest; and it gave a fatal blow to the empire of the Franks. For the treaty of Verdun in 843 abrogated the sovereignty that had been attached to the eldest brother and to the imperial name in former partitions: each held his respective kingdom as an independent right. This is the epoch of a final separation between the French and German members of the empire. Its millenary was celebrated by some of the latter nation in 1843.[11]

The subsequent partitions made among the children of these

[11] In the division made by the treaty of Verdun, the kingdom of France, which fell to Charles the Bald, had for its eastern boundary the Meuse, the Saône, and the Rhone; which, nevertheless, can only be understood of the Upper Meuse, since Brabant was certainly not comprised in it. Lothaire, the elder brother, besides Italy, had a kingdom called Lorrain, from his name (Lotharingia), extending from the mouth of the Rhine to Provence, bounded by that river on one frontier, by France on the other. Louis took all beyond the Rhine, and was usually styled The Germanic.

brothers are of too rapid succession to be here related. In about forty years the empire was nearly reunited under Charles the Fat, son of Louis of Germany; but his short and inglorious reign ended in his deposition. From this time the possession of Italy was contested among her native princes; Germany fell at first to an illegitimate descendant of Charlemagne, and in a short time was entirely lost by his family; two kingdoms, afterwards united, were formed by usurpers out of what was then called Burgundy, and comprised the provinces between the Rhone and the Alps, with Franche Comté, and great part of Switzerland.[12] In France the Carlovingian kings continued for another century; but their line was interrupted two or three times by the election or usurpation of a powerful family, the counts of Paris and Orleans, who ended, like the old mayors of the palace, in dispersing the phantoms of royalty they had professed to serve. Hugh Capet, the representative of this house, upon the death of Louis V., placed himself upon the throne; thus founding the third and most permanent race of French sovereigns. Before this happened, the descendants of Charlemagne had sunk into insignificance, and retained little more of France than the city of Laon. The rest of the kingdom had been seized by the powerful nobles, who, with the nominal fidelity of the feudal system, maintained its practical independence and rebellious spirit.

§ 10. The second period of Carlovingian history, or that which elapsed from the reign of Charles the Bald to the accession of Hugh Capet, must be reckoned the transitional state, through scenes of barbarous anarchy, from the artificial scheme devised by Charlemagne, in which the Roman and German elements of civil policy were rather in conflict than in union to a new state of society—the feudal, which, though pregnant itself with great evil, was the means both of preserving the frame of European policy from disintegration, and of elaborating the moral and constitutional principles upon which it afterwards rested.

This period exhibits, upon the whole, a failure of the grand endeavour made by Charlemagne for the regeneration of his empire. This proceeded very much from the common chances of hereditary succession, especially when not counterbalanced by established powers independent of it. Three of his name, Charles the Bald, the Fat, and the Simple, had time to pull down what the great legislator and conqueror had erected. Encouraged by their pusillanimity and weakness, the nobility strove to revive the spirit of the seventh century. They entered into a coalition with the bishops, though Charles the Bald had often sheltered himself behind the crosier; and they compelled his son, Louis the Stammerer, not only to con-

[12] See NOTE VIII. 'On the kingdom of Burgundy.'

firm their own privileges and those of the Church, but to style himself "King, by the grace of God and election of the people;" which, indeed, according to the established constitution, was no more than truth, since the absolute right to succession was only in the family. The inability of the crown to protect its subjects from their invaders rendered this assumption of aristocratic independence absolutely necessary. In this age of agony, Sismondi well says, the nation began to revive; new social bodies sprung from the carcase of the great empire. France, so defenceless under the Bald and the Fat Charleses, bristled with castles before 930. She renewed the fable of Deucalion; she sowed stones, and armed men rose out of them. The lords surrounded themselves with vassals; and had not the Norman incursions ceased before, they would have met with a much more determined resistance than in the preceding century.[13]

The theory propounded by Thierry, and accepted by many French writers, to elucidate the Carlovingian period, requires a brief notice. Thierry maintains that the key to all the revolutions in two centuries is to be found in the antipathy of the Romans, that is, the ancient inhabitants, to the Franks or Germans. The latter were represented by the house of Charlemagne; the former by that of Robert the Brave, through its valiant descendants, Eudes, Robert, and Hugh Capet. But though the differences of origin and language, so far as they existed, might be by no means unimportant in the great revolution near the close of the tenth century, they cannot be relied upon as sufficiently explaining its cause. The partisans of either family were not exclusively of one blood. The house of Capet itself was not of Roman, but probably of Saxon descent. It is certainly probable that the Neustrian French had come to feel a greater sympathy with the house of Capet than with a line of kings who rarely visited their country, and whom they could not but contemplate as in some adverse relation to their natural and popular chiefs. But the national voice was not greatly consulted in those ages. It is remarkable that several writers of the nineteenth century, however they may sometimes place the true condition of the people in a vivid light, are constantly relapsing into a democratic theory. They do not by any means underrate the oppressed and almost servile condition of the peasantry and burgesses, when it is their aim to draw a picture of society; yet in reasoning on a political revolution, such as the decline and fall of the German dynasty, they ascribe to these degraded classes both the will and the power to effect it. The proud nationality which spurned a foreign line of princes could not be felt by an impoverished and afflicted commonalty.

§ 11. These were times of great misery to the people, and the

[13] Sismondi, 'Hist. des Français,' iii. 218, 378; iv. 9.

worst, perhaps, that Europe has ever known. Even under Charlemagne, we have abundant proofs of the calamities which the people suffered. The light which shone around him was that of a consuming fire. The free proprietors, who had once considered themselves as only called upon to resist foreign invasion, were harassed by endless expeditions, and dragged away to the Baltic Sea, or the banks of the Drave. Many of them, as we learn from his Capitularies, became ecclesiastics to avoid military conscription. But far worse must have been their state under the lax government of succeeding times, when the dukes and counts, no longer checked by the vigorous administration of Charlemagne, were at liberty to play the tyrants in their several territories, of which they now became almost the sovereigns. The poorer landholders accordingly were forced to bow their necks to the yoke; and, either by compulsion or through hope of being better protected, submitted their independent patrimonies to the feudal tenure.

But evils still more terrible than these political abuses were the lot of those nations who had been subject to Charlemagne. They, indeed, may appear to us little better than ferocious barbarians; but they were exposed to the assaults of tribes, in comparison of whom they must be deemed humane and polished. Each frontier of the empire had to dread the attack of an enemy. The coasts of Italy were continually alarmed by the Saracens of Africa, who possessed themselves of Sicily and Sardinia, and became masters of the Mediterranean Sea. Though the Greek dominions in the south of Italy were chiefly exposed to them, they twice insulted and ravaged the territory of Rome (A.D. 846-849); nor was there any security even in the neighbourhood of the maritime Alps, where, early in the tenth century, they settled a piratical colony.

§ 12. Much more formidable were the foes by whom Germany was assailed. The Sclavonians, a widely extended people, whose language is still spoken upon half the surface of Europe, had occupied the countries of Bohemia, Poland, and Pannonia,[14] on the eastern confines of the empire, and from the time of Charlemagne acknowledged its superiority. But at the end of the ninth century, a Tartarian tribe, the Hungarians, overspreading that country which since has borne their name, and moving forward like a vast wave, brought a dreadful reverse upon Germany. Their numbers were great, their ferocity untamed. They fought with light cavalry and light armour, trusting to their showers of arrows, against whom the swords and lances of the European armies could not avail. The

[14] I am sensible of the awkward effect of introducing this name from a more ancient geography, but it saves a circumlocution still more awkward. Austria would convey an imperfect idea, and the Austrian dominions could not be named without a tremendous anachronism.

memory of Attila was renewed in the devastations of these savages, who, if they were not his compatriots, resembled them both in their countenances and customs. All Italy, all Germany, and the south of France, felt this scourge; till Henry the Fowler and Otho the Great drove them back by successive victories within their own limits, where, in a short time, they learned peaceful arts, adopted the religion and followed the policy of Christendom (A.D. 934-954).

§ 13. If any enemies could be more destructive than these Hungarians, they were the pirates of the north, known commonly by the name of Normans. The love of a predatory life seems to have attracted adventurers of different nations to the Scandinavian seas, from whence they infested, not only by maritime piracy, but continual invasions, the northern coasts both of France and Germany. The causes of their sudden appearance are inexplicable, or at least could only be sought in the ancient traditions of Scandinavia. For, undoubtedly, the coasts of France and England were as little protected from depredations under the Merovingian kings, and those of the Heptarchy, as in subsequent times. Yet only one instance of an attack from this side is recorded, and that before the middle of the sixth century, till the age of Charlemagne. In 787 the Danes, as we call those northern plunderers, began to infest England, which lay most immediately open to their incursions. Soon afterwards they ravaged the coasts of France. Charlemagne repulsed them by means of his fleets; yet they pillaged a few places during his reign. It is said that, perceiving one day, from a port in the Mediterranean, some Norman vessels which had penetrated into that sea, he shed tears, in anticipation of the miseries which awaited his empire. In Louis's reign their depredations upon the coast were more incessant, but they did not penetrate into the inland country till that of Charles the Bald. The wars between that prince and his family, which exhausted France of her noblest blood, the insubordination of the provincial governors, even the instigation of some of Charles's enemies, laid all open to their inroads. They adopted an uniform plan of warfare both in France and England; sailing up navigable rivers in their vessels of small burden, and fortifying the islands which they occasionally found, they made these intrenchments at once an asylum for their women and children, a repository for their plunder, and a place of retreat from superior force. After pillaging a town they retired to these strongholds or to their ships; and it was not till 872 that they ventured to keep possession of Angers, which, however, they were compelled to evacuate. Sixteen years afterwards they laid siege to Paris, and committed the most ruinous devastations on the neighbouring country. As these Normans were unchecked by religious awe, the rich monasteries, which had stood harmless amidst the havoc of Christian war, were overwhelmed in

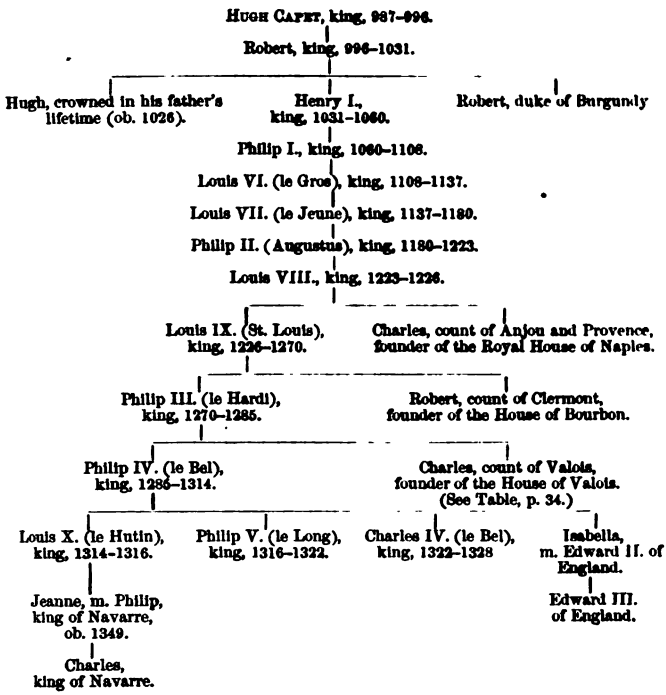
the storm. Perhaps they may have endured some irrecoverable losses of ancient learning; but their complaints are of monuments disfigured, bones of saints and kings dispersed, treasures carried away. St. Denis redeemed its abbot from captivity with six hundred and eighty-five pounds of gold. All the chief abbeys were stripped about the same time, either by the enemy, or for contributions to the public necessity. So impoverished was the kingdom, that in 860 Charles the Bald had great difficulty in collecting three thousand pounds of silver to subsidize a body of Normans against their countrymen. The kings of France, too feeble to prevent or repel these invaders, had recourse to the palliative of buying peace at their hands, or rather precarious armistices, to which reviving thirst of plunder soon put an end. At length Charles the Simple, in 918, ceded a great province, which they had already partly occupied, partly rendered desolate, and which has derived from them the name of Normandy. Ignominious as this appears, it proved no impolitic step. Rollo, the Norman chief, with all his subjects, became Christians and Frenchmen; and the kingdom was at once relieved from a terrible enemy, and strengthened by a race of hardy colonists. No measure was so conducive to the revival of France from her abasement in the ninth century as the cession of Normandy. The Normans had been distinguished by a peculiar ferocity towards priests; yet when their conversion to Christianity was made the condition of their possessing Normandy, they were ready enough to comply, and in another generation became amongst the most devout of the French nation. An explanation of the new zeal for Christianity which sprung up among the Normans may be found in the important circumstance, that, having few women with them, they took wives (they had made widows enough) from the native inhabitants. These taught their own faith to their children. They taught also their own language; and in no other manner can we so well account for the rapid extinction of that of Scandinavia in that province of France.

§ 14. The accession of HUGH CAPET (A.D. 987) had not the immediate effect of restoring the royal authority over France. His own very extensive fief was now, indeed, united to the crown; but a few great vassals occupied the remainder of the kingdom. Six of these obtained, at a subsequent time, the exclusive appellation of peers of France,—the count of Flanders, whose fief stretched from the Scheldt to the Somme; the count of Champagne; the duke of Normandy, to whom Britany did homage; the duke of Burgundy, [illegible] whom the count of Nivernois seems to have depended; the duke [illegible]aine, whose territory, though less than the ancient kingdom [illegible]e, comprehended Poitou, Limousin, and most of Guienne, [illegible] superiority over the Angoumois, and some other

14 I am [illegible] of introducing [illegible] cient geography, [illegible] cution still more awk[illegible]

central districts; and, lastly, the count of Toulouse, who possessed Languedoc, with the small countries of Quercy and Rouergue, and the superiority over Auvergne. Besides these six, the duke of Gascony, not long afterwards united with Aquitaine, the counts of Anjou, Ponthieu, and Vermandois, the viscount of Bourges, the lords of Bourbon and Coucy, with one or two other vassals, held immediately of the last Carlovingian kings. This was the aristocracy, of which Hugh Capet usurped the direction; for the suffrage of no general assembly gave a sanction to his title. On the death of

SUCCESSORS OF HUGH CAPET.



Louis V. he took advantage of the absence of Charles, duke of Lorraine, who, as the deceased king's uncle, was nearest heir, and procured his own consecration at Rheims. At first he was by no means acknowledged in the kingdom; but his contest with Charles proving successful, the chief vassals ultimately gave at least a tacit

consent to the usurpation, and permitted the royal name to descend undisputed upon his posterity. But this was almost the sole attribute of sovereignty which the first kings of the third dynasty enjoyed.

§ 15. For a long period before and after the accession of that family, France has, properly speaking, no national history. The character or fortune of those who were called its kings were little more important to the majority of the nation than those of foreign princes. Undoubtedly, the degree of influence which they exercised with respect to the vassals of the crown varied according to their power and their proximity. Over Guienne and Toulouse the first four Capets had very little authority; nor do they seem to have ever received assistance from them either in civil or national wars. With provinces nearer to their own domains, such as Normandy and Flanders, they were frequently engaged in alliance or hostility; but each seemed rather to proceed from the policy of independent states than from the relation of a sovereign towards his subjects.

It should be remembered that, when the fiefs of Paris and Orleans are said to have been reunited by Hugh Capet to the crown, little more is understood than the feudal superiority over the vassals of these provinces. As the kingdom of Charlemagne's posterity was split into a number of great fiefs, so each of these contained many barons, possessing exclusive immunities within their own territories, waging war at their pleasure, administering justice to their military tenants and other subjects, and free from all control beyond the conditions of the feudal compact. At the accession of Louis VI. in 1108, the cities of Paris, Orleans, and Bourges, with the immediately adjacent districts, formed the most considerable portion of the royal domain. A number of petty barons, with their fortified castles, intercepted the communication between these, and waged war against the king almost under the walls of his capital. It cost Louis a great deal of trouble to reduce the lords of Montlhéry, and other places within a few miles of Paris. Under this prince, however, who had more activity than his predecessors, the royal authority considerably revived. From his reign we may date the systematic rivalry of the French and English monarchies. Hostilities had several times occurred between Philip I. and the two Williams; but the wars that began under Louis VI. lasted, with no long interruption, for three centuries and a half, and form, indeed, the most leading feature of French history during the middle ages. Of all the royal vassals the dukes of Normandy were the proudest and most powerful. Though they had submitted to do homage, they could not forget that they came in originally by force, and that in real strength they were fully equal to their sovereign. Nor had the conquest of England any tendency to diminish their pretensions.

§ 16. Louis VII. ascended the throne (A.D. 1137) with better prospects than his father. He had married Eleanor, heiress of the great duchy of Guienne. But this union, which promised an immense accession of strength to the crown, was rendered unhappy by the levities of that princess. Repudiated by Louis, who felt rather as a husband than a king, Eleanor immediately married Henry II. of England, who, already inheriting Normandy from his mother and Anjou from his father, became possessed of more than one-half of France, and an overmatch for Louis, even if the great vassals of the crown had been always ready to maintain its supremacy. One might venture, perhaps, to conjecture that the sceptre of France would eventually have passed from the Capets to the Plantagenets, if the vexatious quarrel with Becket at one time, and the successive rebellions fomented by Louis at a later period, had not embarrassed the great talents and ambitious spirit of Henry.

§ 17. But the scene quite changed when Philip Augustus, son of Louis VII., came upon the stage (A.D. 1180). No prince comparable to him in systematic ambition and military enterprise had reigned in France since Charlemagne. From his reign the French monarchy dates the recovery of its lustre. He wrested from the count of Flanders the Vermandois (that part of Picardy which borders on the Isle of France and Champagne),[15] and, subsequently, the county of Artois. But the most important conquests of Philip were obtained against the kings of England. Even Richard I., with all his prowess, lost ground in struggling against an adversary not less active, and more politic, than himself. But when John not only took possession of his brother's dominions, but confirmed his usurpation by the murder, as was very probably surmised, of the heir, Philip, artfully taking advantage of the general indignation, summoned him as his vassal to the court of his peers. John demanded a safe-conduct. Willingly, said Philip; let him come unmolested. And return? inquired the English envoy. If the judgment of his peers permit him, replied the king. By all the saints of France, he exclaimed, when further pressed, he shall not return unless acquitted. The bishop of Ely still remonstrated that the duke of Normandy could not come without the king of England; nor would the barons of that country permit their sovereign to run the risk of death or imprisonment. What of that, my lord bishop? cried Philip. It is well known that my vassal the duke of Normandy acquired England by force. But if a subject obtains any accession of dignity, shall his paramount lord therefore lose his rights?

John, not appearing at his summons, was declared guilty of felony, and his fiefs confiscated. The execution of this sentence was

[15] The principal towns of the Vermandois are St. Quentin and Peronne.

not intrusted to a dilatory arm. Philip poured his troops into Normandy, and took town after town, while the king of England, infatuated by his own wickedness and cowardice, made hardly an attempt at defence. In two years Normandy, Maine, and Anjou were irrecoverably lost. Poitou and Guienne resisted longer; but the conquest of the first was completed by Louis VIII., successor of Philip (A.D. 1223), and the subjection of the second seemed drawing near, when the arms of Louis were diverted to different but scarcely less advantageous objects.

§ 18. The country of Languedoc, subject to the counts of Toulouse, had been unconnected, beyond any other part of France, with the kings of the house of Capet. Louis VII., having married his sister to the reigning count, and travelled himself through the country, began to exercise some degree of authority, chiefly in confirming the rights of ecclesiastical bodies, who were vain, perhaps, of this additional sanction to the privileges which they already possessed. But the remoteness of their situation, with a difference in language and legal usages, still kept the people of this province apart from those of the north of France.

About the middle of the twelfth century, certain religious opinions, which it is not easy, nor, for our present purpose, material to define, but, upon every supposition, exceedingly adverse to those of the church,[16] began to spread over Languedoc. Those who imbibed them have borne the name of Albigeois, though they were in no degree peculiar to the district of Albi. In despite of much preaching and some persecution, these errors made a continual progress; till Innocent III., in 1198, despatched commissaries, the seed of the inquisition, with ample powers both to investigate and to chastise. Raymond VI., count of Toulouse, whether inclined towards the innovators, as was then the theme of reproach, or, as is more probable, disgusted with the insolent interference of the pope and his missionaries, provoked them to pronounce a sentence of excommunication against him. Though this was taken off, he was still suspected; and upon the assassination of one of the inquisitors, in which Raymond had no concern, Innocent published a crusade both against the count and his subjects, calling upon the king of France, and the nobility of that kingdom, to take up the cross, with all the indulgences usually held out as allurements to religious warfare (A.D. 1208). Though Philip would not interfere, a prodigious number of knights undertook this enterprise, led partly by ecclesiastics, and partly by some of the first barons in France. It was prosecuted with every atrocious barbarity which superstition, the mother of crimes, could inspire. Languedoc, a country, for that

[16] For the real tenets of the Languedocian sectaries I refer to the last chapter of the present work, where the subject will be taken up again.

age, flourishing and civilized, was laid waste by these desolators; her cities burned; her inhabitants swept away by fire and the sword.

The crusaders were commanded by Simon de Montfort, a man, like Cromwell, whose intrepidity, hypocrisy, and ambition, marked him for the hero of a holy war. The energy of such a mind, at the head of an army of enthusiastic warriors, may well account for successes which then appeared miraculous. But Montfort was cut off before he could realize his ultimate object, an independent principality; and Raymond was able to bequeath the inheritance of his ancestors to his son. Rome, however, was not yet appeased; upon some new pretence she raised up a still more formidable enemy against the younger Raymond (A.D. 1222). Louis VIII. suffered himself to be diverted from the conquest of Guienne, to take the cross against the supposed patron of heresy. After a short and successful war, Louis, dying prematurely, left the crown of France to a son only twelve years old. But the count of Toulouse was still pursued, till, hopeless of safety in so unequal a struggle, he concluded a treaty upon very hard terms. By this he ceded the greater part of Languedoc (A.D. 1229); and, giving his daughter in marriage to Alphonso, brother of Louis IX., confirmed to them, and to the king in failure of their descendants, the reversion of the rest, in exclusion of any other children whom he might have. Thus fell the ancient house of Toulouse, through one of those strange combinations of fortune, which thwart the natural course of human prosperity, and disappoint the plans of wise policy and beneficent government.

§ 19. The rapid progress of royal power under Philip Augustus and his son had scarcely given the great vassals time to reflect upon the change which it produced in their situation. The crown, with which some might singly have measured their forces, was now an equipoise to their united weight. The minority of Louis IX. (A.D. 1226), guided only by his mother, the regent, Blanche of Castile, seemed to offer a favourable opportunity for recovering their former situation. They broke out into open rebellion; but the address of Blanche detached some from the league, and her firmness subdued the rest. For the first fifteen years of Louis's reign, the struggle was frequently renewed; till repeated humiliations convinced the refractory that the throne was no longer to be shaken.

But Louis IX. had methods of preserving his ascendancy very different from military prowess. That excellent prince was perhaps the most eminent pattern of unswerving probity and Christian strictness of conscience that ever held the sceptre in any country. There is a peculiar beauty in the reign of St. Louis, because it shows the inestimable benefit which a virtuous king may confer on his people, without possessing any distinguished genius. For nearly

half a century that he governed France there is not the smallest want of moderation or disinterestedness in his actions; and yet he raised the influence of the monarchy to a much higher point than the most ambitious of his predecessors. To the surprise of his own and later times, he restored great part of his conquests to Henry III., whom he might naturally hope to have expelled from France (A.D. 1259). It would indeed have been a tedious work to conquer Guienne, which was full of strong places; and the subjugation of such a province might have alarmed the other vassals of his crown. But it is the privilege only of virtuous minds to perceive that wisdom resides in moderate counsels: no sagacity ever taught a selfish and ambitious sovereign to forego the sweetness of immediate power. An ordinary king, in the circumstances of the French monarchy, would have fomented, or, at least, have rejoiced in, the dissensions which broke out among the principal vassals; Louis constantly employed himself to reconcile them. In this, too, his benevolence had all the effects of far-sighted policy. It had been the practice of his last three predecessors to interpose their mediation in behalf of the less powerful classes, the clergy, the inferior nobility, and the inhabitants of chartered towns. Thus the supremacy of the crown became a familiar idea; but the perfect integrity of St. Louis wore away all distrust, and accustomed even the most jealous feudatories to look upon him as their judge and legislator. And as the royal authority was hitherto shown only in its most amiable prerogatives, the dispensation of favour, and the redress of wrong, few were watchful enough to remark the transition of the French constitution from a feudal league to an absolute monarchy.

It was perhaps fortunate for the display of St. Louis's virtues that the throne had already been strengthened by the less innocent exertions of Philip Augustus and Louis VIII. A century earlier his mild and scrupulous character, unsustained by great actual power, might not have inspired sufficient awe. But the crown was now grown so formidable, and Louis was so eminent for his firmness and bravery, qualities without which every other virtue would have been ineffectual, that no one thought it safe to run wantonly into rebellion, while his disinterested administration gave no one a pretext for it. Hence the latter part of his reign was altogether tranquil, and employed in watching over the public peace and the security of travellers; administering justice personally, or by the best counsellors; and compiling that code of feudal customs called the Establishments of St. Louis, which is the first monument of legislation after the accession of the house of Capet. Not satisfied with the justice of his own conduct, Louis aimed at that act of virtue which is rarely practised by private men, and had perhaps no example among kings—restitution. Commissaries were appointed to inquire

what possessions had been unjustly annexed to the royal domain during the last two reigns. These were restored to the proprietors, or, where length of time had made it difficult to ascertain the claimant, their value was distributed among the poor.

The principal weakness of this king, which almost effaced all the good effects of his virtues, was superstition. No man was ever more impressed than St. Louis with a belief in the duty of exterminating all enemies to his own faith. With these he thought no layman ought to risk himself in the perilous ways of reasoning, but to make answer with his sword as stoutly as a strong arm and a fiery zeal could carry that argument. Though, fortunately for his fame, the persecution against the Albigeois, which had been the disgrace of his father's short reign, was at an end before he reached manhood, he suffered a hypocritical monk to establish a tribunal at Paris for the suppression of heresy, where many innocent persons suffered death. But no events in his life were more memorable than his two crusades, which lead us to look back on the nature and circumstances of those most singular phenomena in European history. Though the crusades involved all the western nations of Europe, without belonging particularly to any one, yet, as France was more distinguished than the rest in most of those enterprises, I shall introduce the subject as a sort of digression from the main course of French history,

§ 20. Even before the violation of Palestine by the Saracen arms it had been a prevailing custom among the Christians of Europe to visit those scenes rendered interesting by religion, partly through delight in the effects of local association, partly in obedience to the prejudices or commands of superstition. These pilgrimages became more frequent in later times, in spite, perhaps in consequence, of the danger and hardships which attended them. For a while the Mohammedan possessors of Jerusalem permitted, or even encouraged, a devotion which they found lucrative; but this was interrupted whenever the ferocious insolence with which they regarded all infidels got the better of their rapacity. During the eleventh century, when, from increasing superstition, and some particular fancies, the pilgrims were more numerous than ever, a change took place in the government of Palestine, which was overrun by the Turkish hordes from the North. These barbarians treated the visitors of Jerusalem with still greater contumely, mingling with their Mohammedan bigotry a consciousness of strength and courage, and a scorn of the Christians, whom they knew only by the debased natives of Greece and Syria, or by these humble and defenceless palmers. When such insults become known throughout Europe, they excited a keen sensation of resentment among nations equally courageous and devout, which, though

wanting as yet any definite means of satisfying itself, was ripe for whatever favourable conjuncture might arise.

Twenty years before the first crusade Gregory VII. had projected the scheme of embodying Europe in arms against Asia—a scheme worthy of his daring mind, and which, perhaps was never forgotten by Urban II., who in everything loved to imitate his great predecessor. This design of Gregory was founded upon the supplication of the Greek emperor Michael, which was renewed by Alexius Comnenus to Urban with increased importunity. The Turks had now taken Nice, and threatened, from the opposite shore, the very walls of Constantinople. Every one knows whose hand held the torch to that inflammable mass of enthusiasm that pervaded Europe; the hermit of Picardy, who, roused by witnessed wrongs and imagined visions, journeyed from land to land, the apostle of a holy war. The preaching of Peter was powerfully seconded by Urban (A.D. 1095). In the councils of Piacenza and of Clermont the deliverance of Jerusalem was eloquently recommended and exultingly undertaken. "It is the will of God!" was the tumultuous cry that broke from the heart and lips of the assembly at Clermont; and these words afford at once the most obvious and most certain explanation of the leading principle of the crusades.

Every means was used to excite an epidemical frenzy; the remission of penance, the dispensation from those practices of self-denial which superstition imposed or suspended at pleasure, the absolution of all sins, and the assurance of eternal felicity. None doubted that such as perished in the war received immediately the reward of martyrdom. False miracles and fanatical prophecies, which were never so frequent, wrought up the enthusiasm to a still higher pitch. And these devotional feelings, which are usually thwarted and balanced by other passions, fell in with every motive that could influence the men of that time; with curiosity, restlessness, the love of licence, thirst for war, emulation, ambition. Of the princes who assumed the cross, some probably from the beginning speculated upon forming independent establishments in the East. In later periods the temporal benefits of undertaking a crusade undoubtedly blended themselves with less selfish considerations. Men resorted to Palestine, as in modern times they have done to the colonies, in order to redeem their fame, or repair their fortune. Thus Gui de Lusignan, after flying from France for murder, was ultimately raised to the throne of Jerusalem. To the more vulgar class were held out inducements which, though absorbed in the overruling fanaticism of the first crusade, might be exceedingly efficacious when it began rather to flag. During the time that a crusader bore the cross he was free from suit for his debts, and the interest of them was entirely abolished; he was exempted, in some instances at least,

from taxes, and placed under the protection of the church, so that he could not be impleaded in any civil court, except on criminal charges, or disputes relating to land.

None of the sovereigns of Europe took a part in the *First Crusade;* but many of their chief vassals, great part of the inferior nobility, and a countless multitude of the common people. Numbers of women and children swelled the crowd; it appeared a sort of sacrilege to repel any one from a work which was considered as the manifest design of Providence. But if it were lawful to interpret the will of Providence by events, few undertakings have been more branded by its disapprobation than the crusades. So many crimes and so much misery have seldom been accumulated in so short a space as in the three years of the first expedition. We should be warranted by contemporary writers in stating the loss of the Christians alone during this period at nearly a million; but at the least computation it must have exceeded half that number. To engage in the crusade, and to perish in it, were almost synonymous. Few of those myriads who were mustered in the plains of Nice returned to gladden their friends in Europe with the story of their triumph at Jerusalem. Besieging alternately, and besieged in Antioch, they drained to the lees the cup of misery: three hundred thousand sat down before that place; next year there remained but a sixth part to pursue the enterprise. But their losses were least in the field of battle; the intrinsic superiority of European prowess was constantly displayed; the angel of Asia, to apply the bold language of our poet, high and unmatchable, where her rival was not, became a fear; and the Christian lances bore all before them in their shock from Nice to Antioch, Edessa, and Jerusalem (A.D. 1099).[17]

The conquests obtained at such a price by the first crusade were chiefly comprised in the maritime parts of Syria. Except the state of Edessa beyond the Euphrates,[18] which, in its best days, extended over great part of Mesopotamia, the Latin possessions never reached more than a few leagues from the sea. Within the barrier of Mount Libanus their arms might be feared, but their power was never established; and the prophet was still invoked in the mosques of Aleppo and Damascus. The principality of Antioch to the north,

[17] The work of Mailly entitled L'Esprit des Croisades is deserving of considerable praise for its diligence and impartiality. It carries the history, however, no farther than the first expedition. Gibbon's two chapters on the crusades, though not without inaccuracies, are a brilliant portion of his great work. Several new documents have been collected by the industry of the modern historians of the crusades, Michaud and Wilken. The original writers are chiefly collected in two folio volumes, entitled Gesta Dei per Francos, Hanover, 1611.

[18] Edessa was a little Christian principality, surrounded by, and tributary to, the Turks. The inhabitants invited Baldwin, on his progress in the first crusade, and he made no great scruple of supplanting the reigning prince, who indeed is represented as a tyrant and usurper.

the kingdom of Jerusalem with its feudal dependencies of Tripoli and Tiberias to the south, were assigned, the one to Boemond, a brother of Robert Guiscard, count of Apulia, the other to Godfrey of Boulogne, whose extraordinary merit had justly raised him to a degree of influence with the chief crusaders that has been sometimes confounded with a legitimate authority. In the course of a few years Tyre, Ascalon, and the other cities upon the sea-coast, were subjected by the successors of Godfrey on the throne of Jerusalem. But as their enemies had been stunned, not killed, by the western storm, the Latins were constantly molested by the Mohammedans of Egypt and Syria. They were exposed as the outposts of Christendom, with no respite and few resources.

A *Second Crusade* (A.D. 1147), in which the emperor Conrad III. and Louis VII. of France were engaged, each with seventy thousand cavalry, made scarce any diversion; and that vast army wasted away in the passage of Natolia.

The decline of the Christian establishments in the East is ascribed by William of Tyre to the extreme viciousness of their manners, to the adoption of European arms by the Orientals, and to the union of the Mohammedan principalities under a single chief. Without denying the operation of these causes, and especially the last, it is easy to perceive one more radical than all the three, the inadequacy of their means of self-defence. The kingdom of Jerusalem was guarded only, exclusive of European volunteers, by the feudal service of 866 knights, attended each by four archers on horseback, by a militia of 5075 burghers, and by a conscription, in great exigencies, of the remaining population. William of Tyre mentions an army of 1300 horse and 15,000 foot, as the greatest which had ever been collected, and predicts the utmost success from it, if wisely conducted. This was a little before the irruption of Saladin. Nothing can more strikingly evince the ascendancy of Europe than the resistance of these Frankish acquisitions in Syria during nearly two hundred years. Several of their victories over the Moslems were obtained against such disparity of numbers, that they may be compared with whatever is most illustrious in history or romance. These perhaps were less due to the descendants of the first crusaders, settled in the Holy Land, than to those volunteers from Europe whom martial ardour and religious zeal impelled to the service. It was the penance commonly imposed upon men of rank for the most heinous crimes, to serve a number of years under the banner of the cross. Thus a perpetual supply of warriors was poured in from Europe; and in this sense the crusades may be said to have lasted without intermission during the whole period of the Latin settlements. Of these defenders the most renowned were the military orders of the Knights of the Temple and of the Hospital of St. John;

instituted, the one in 1124, the other in 1118, for the sole purpose of protecting the Holy Land. The Teutonic order, established in 1190, when the kingdom of Jerusalem was falling, soon diverted its schemes of holy warfare to a very different quarter of the world. Large estates, as well in Palestine as throughout Europe, enriched the two former institutions; but the pride, rapaciousness, and misconduct of both, especially of the Templars, seem to have balanced the advantages derived from their valour. At length the famous Saladin, usurping the throne of a feeble dynasty which had reigned in Egypt, broke in upon the Christians of Jerusalem; the king and the kingdom fell into his hands; nothing remained but a few strong towns upon the sea-coast (A.D. 1187).

These misfortunes roused once more the princes of Europe, and the *Third Crusade* (A.D. 1189) was undertaken by three of her sovereigns, the greatest in personal estimation as well as dignity—by the emperor Frederic Barbarossa, Philip Augustus of France, and our own Richard Cœur de Lion. But this, like the preceding enterprise, failed of permanent effect; and those feats of romantic prowess which made the name of Richard so famous both in Europe and Asia proved only the total inefficacy of all exertions in an attempt so impracticable; Palestine was never the scene of another crusade. One great armament was diverted to the siege of Constantinople (A.D. 1204); and another wasted in fruitless attempts upon Egypt (A.D. 1218). The emperor Frederic II. afterwards procured the restoration of Jerusalem by the Saracens; but the Christian princes of Syria were unable to defend it, and their possessions were gradually reduced to the maritime towns. Acre, the last of these, was finally taken by storm in 1291; and its ruin closes the history of the Latin dominion in Syria, which Europe had already ceased to protect.

The last two crusades were undertaken by St. Louis. In the first he was attended by 2800 knights and 50,000 ordinary troops. He landed at Damietta in Egypt, for that country was now deemed the key of the Holy Land, and easily made himself master of the city (A.D. 1248). But advancing up the country, he found natural impediments as well as enemies in his way; the Turks assailed him with Greek fire, an instrument of warfare almost as surprising and terrible as gunpowder; he lost his brother the count of Artois, with many knights, at Massoura, near Cairo; and began too late a retreat towards Damietta. Such calamities now fell upon this devoted army as have scarce ever been surpassed; hunger and want of every kind, aggravated by an unsparing pestilence. At length the king was made prisoner, and very few of the army escaped the Turkish scimitar in battle or in captivity. Four hundred thousand livres were paid as a ransom for Louis. He

returned to France, and passed near twenty years in the exercise of those virtues which are his best title to canonization. But the fatal illusions of superstition were still always at his heart; nor did it fail to be painfully observed by his subjects that he still kept the cross upon his garment. His last expedition was originally designed for Jerusalem. But he had received some intimation that the king of Tunis was desirous of embracing Christianity. That these intentions might be carried into effect, he sailed out of his way to the coast of Africa, and laid siege to that city (A.D. 1270). A fever here put an end to his life, sacrificed to that ruling passion which never would have forsaken him. But he had survived the spirit of the crusades; the disastrous expedition to Egypt had cured his subjects, though not himself, of their folly; his son, after making terms with Tunis, returned to France; the Christians were suffered to lose what they still retained in the Holy Land; and though many princes in subsequent ages talked loudly of renewing the war, the promise, if it were ever sincere, was never accomplished.

§ 21. Louis IX. had increased the royal domain by the annexation of several counties and other less important fiefs; but soon after the accession of Philip III., surnamed the Bold (A.D. 1270), it received a far more considerable augmentation. Alfonso, the late king's brother, had been invested with the county of Poitou, ceded by Henry III., together with part of Auvergne and of Saintonge; and held also, as has been said before, the remains of the great fief of Toulouse, in right of his wife Jane, heiress of Raymond VII. Upon his death, and that of his countess, which happened about the same time, the king entered into possession of all these territories (A.D. 1271). This acquisition brought the sovereigns of France into contact with new neighbours, the kings of Arragon and the powers of Italy. The first great and lasting foreign war which they carried on was that of Philip III. and Philip IV. against the former kingdom, excited by the insurrection of Sicily. Though effecting no change in the boundaries of their dominions, this war may be deemed a sort of epoch in the history of France and Spain, as well as in that of Italy, to which it more peculiarly belongs.

§ 22. There still remained five great and ancient fiefs of the French crown; Champagne, Guienne, Flanders, Burgundy, and Britany. But Philip IV., usually called the Fair (A.D. 1285), married the heiress of the first, a little before his father's death; and although he governed that country in her name, without pretending to reunite it to the royal domain, it was, at least in a political sense, no longer a part of the feudal body. With some of his other vassals Philip used more violent methods. A parallel might be drawn between this prince and Philip Augustus. But

while in ambition, violence of temper, and unprincipled rapacity, as well as in the success of their attempts to establish an absolute authority, they may be considered as nearly equal, we may remark this difference, that Philip the Fair, who was destitute of military talents, gained those ends by dissimulation which his predecessor had reached by force.

The duchy of Guienne, though somewhat abridged of its original extent, was still by far the most considerable of the French fiefs, even independently of its connexion with England. Philip, by dint of perfidy, and by the egregious incapacity of Edmond, brother of Edward I., contrived to obtain, and to keep for several years, the possession of this great province. A quarrel among some French and English sailors having provoked retaliation, till a sort of piratical war commenced between the two countries, Edward, as duke of Guienne, was summoned into the king's court to answer for the trespass of his subjects (A.D. 1292). Upon this he despatched his brother to settle terms of reconciliation, with fuller powers than should have been intrusted to so credulous a negotiator. Philip so outwitted this prince, through a fictitious treaty, as to procure from him the surrender of all the fortresses in Guienne. He then threw off the mask, and, after again summoning Edward to appear, pronounced the confiscation of his fief. This business is the greatest blemish in the political character of Edward. But his eagerness about the acquisition of Scotland rendered him less sensible to the danger of a possession in many respects more valuable; and the spirit of resistance among the English nobility, which his arbitrary measures had provoked, broke out very opportunely for Philip, to thwart every effort for the recovery of Guienne by arms. But after repeated suspensions of hostilities a treaty was finally concluded, by which Philip restored the province, on the agreement of a marriage between his daughter Isabel and the heir of England.

To this restitution he was chiefly induced by the ill success that attended his arms in Flanders, another of the great fiefs which this ambitious monarch had endeavoured to confiscate. The Flemings made, however, so vigorous a resistance, that Philip was unable to reduce that small country; and in one famous battle at Courtray they discomfited a powerful army with that utter loss and ignominy to which the undisciplined impetuosity of the French nobles was pre-eminently exposed (A.D. 1302.)

Two other acquisitions of Philip the Fair deserve notice; that of the counties of Angoulême and La Marche, upon a sentence of forfeiture (and, as it seems, a very harsh one) passed against the reigning count: and that of the city of Lyons, and its adjacent territory, which had not even feudally been subject to the crown of France for more than three hundred years.

§ 23. One of the most memorable events in the reign of Philip IV. was the condemnation and suppression of the Order of the Knights Templars on the charge of systematic blasphemy and impiety, shameless immorality, and deliberate apostasy from the Christian faith. Their innocence or guilt has been the subject of much controversy. The general current of popular writers in the eighteenth century was in favour of their innocence; in England it would have been almost paradoxical to doubt of it. The rapacious and unprincipled character of Philip, the submission of the Pope, Clement V., to his will, the apparent incredibility of the charges from their monstrousness, the just prejudice against confessions obtained by torture and retracted afterwards—the other prejudice, not always so just, but in the case of those not convicted on fair evidence deserving a better name, in favour of assertions of innocence made on the scaffold and at the stake—created, as they still preserve, a strong willingness to disbelieve the accusations which came so suspiciously before us. The strongest case against them is contained in an Essay written by Count Hammer Purgstall,[19] in which he endeavours to establish the identity of the idolatry ascribed to the Templars with that of the ancient Gnostic sects, and especially with those denominated Ophites, or worshippers of the serpent; and to prove also that the extreme impurity which forms one of the revolting and hardly credible charges adduced by Philip IV. is similar in all its details to the practice of the Gnostics. This attack is not conducted with all the coolness which bespeaks impartiality; but the evidence is startling enough to make refutation apparently difficult. The first part of the proof, which consists in identifying certain Gnostic idols, or, as some suppose, amulets, though it comes much to the same, with the description of what are called Baphometic, in the proceedings against the Templars, is of itself sufficient to raise a considerable presumption. We find the word *metis* continually on these images, of which Von Hammer is able to describe twenty-four. Baphomet is a secret word ascribed to the Templars.[20] But the more important evidence is that furnished by the comparison of sculptures extant on some Gnostic and Ophitic bowls with those in churches built by the Templars. Of these there are many in Germany, and some in France. Von Hammer has examined several in the Austrian dominions, and collected accounts of others. It is a striking fact that in some we find, concealed from

[19] 'Mysterium Baphometis Revelatum, seu Fratres Militiæ Templi qua Gnostici et quidem Ophiani, Apostatæ, Idolodulia, et Impuritatis convicti per ipsa eorum Monumenta.' Published in the sixth volume of the 'Mines de l'Orient Exploitées.' Vienna, 1818.

[20] This word is generally identified with Mahomet, but Hammer supposes it to be "the God who baptizes according to the spirit (Βαφὴ μήτιδος); the God of the Gnostics and of the Manichæans." See Martin, 'Hist. de France,' vol. iv. p. 477.

the common observer, images and symbols extremely obscene; and as these, which cannot here be more particularly adverted to, betray the depravity of the architects, and cannot be explained away, we may not so much hesitate as at first to believe that impiety of a strange kind was mingled up with this turpitude. The presumptions, of course, from the absolute identity of many emblems in churches with the Gnostic superstitions in their worst form, grow stronger and stronger by multiplication of instances; and though coincidence might be credible in one, it becomes infinitely improbable in so many. One may here be mentioned, though among the slightest resemblances. The Gnostic emblems exhibit a peculiar form of cross, T; and this is common in the churches built by the Templars. But the Freemasons, or that society of architects to whom we owe so many splendid churches, do not escape M. von Hammer's ill opinion better than the Templars. Though he conceives them to be of earlier origin, they had drunk at the same foul spring of impious and impure Gnosticism. Still this evidence has not been universally received. It was attempted to be refuted by Raynouard,[21] who had been partially successful in repelling some of his opponent's arguments, though it appears to me that he had left much untouched.[22] It seems that the architectural evidence is the most positive, and can only be resisted by disproving its existence, or its connexion with the Freemasons and Templars.

§ 24. Philip the Fair left three sons, who successively reigned in France: Louis X. (A.D. 1314), surnamed Hutin; Philip V., surnamed the Long; and Charles IV., surnamed the Fair; with a daughter, Isabel, married to Edward II. of England.[23] Louis, the eldest, survived his father little more than a year, leaving one daughter and his queen pregnant. The circumstances that ensued require to be accurately stated. Louis had possessed, in right of his mother, the kingdom of Navarre, with the counties of Champagne and Brie. Upon his death, Philip, his next brother, assumed the regency both of France and Navarre; and not long afterwards entered into a treaty with Eudes, duke of Burgundy, uncle of the princess Jane, Louis's daughter, by which her eventual rights to the succession were to be regulated. It was agreed that, in case the queen should be delivered of a daughter, these two princesses, or the survivor of them, should take the grandmother's inheritance, Navarre and Champagne, on releasing all claim to the throne of France. But this was not to take place till their age of consent, when, if they

[21] 'Journal des Savans' for 1819.

[22] H. Martin, who has given at great length the history of the condemnation of the Templars ('Hist. de France,' vol. iv. pp. 467-497), says—"Les lumières que l'étude des documents originaux a jetées sur la question, semblent permettre aujourd'hui de condamner moralement l'ordre, mais avec de grandes réserves pour les individus."

[23] See Genealogical Table, p. 17.

should refuse to make such renunciation, their claim was to remain, and *right to be done to them therein;* but, in return, the release made by Philip of Navarre and Champagne was to be null. In the mean time, he was *to hold the government* of France, Navarre, and Champagne, receiving homage of vassals in all these countries as *governor;* saving the right of a male heir to the late king, in the event of whose birth the treaty was not to take effect.

This convention was made on the 17th of July, 1316; and on the 15th of November the queen brought into the world a son, John I. (as some called him), who died in four days. The conditional treaty was now become absolute; in spirit, at least, if any cavil might be raised about the expression; and Philip was, by his own agreement, precluded from taking any other title than that of regent or governor, until the princess Jane should attain the age to concur in or disclaim the provisional contract of her uncle. Instead of this, however, he procured himself to be consecrated at Rheims. Upon his return to Paris, an assembly composed of prelates, barons, and burgesses of that city, was convened, who acknowledged him as their lawful sovereign, and, if we may believe an historian, expressly declared that a woman was incapable of succeeding to the crown of France. The duke of Burgundy, however, made a show of supporting his niece's interests, till, tempted by the prospect of a marriage with the daughter of Philip, he shamefully betrayed her cause, and gave up in her name, for an inconsiderable pension, not only her disputed claim to the whole monarchy, but her unquestionable right to Navarre and Champagne.

In this contest, every way memorable, but especially on account of that which sprung out of it, the exclusion of females from the throne of France was first publicly discussed. The French writers almost unanimously concur in asserting that such an exclusion was built upon a fundamental maxim of their government. No written law, nor even, as far as I know, the direct testimony of any ancient writer, has been brought forward to confirm this position. For as to the text of the Salic law, which was frequently quoted, and has indeed given a name to this exclusion of females, it can only by a doubtful and refined analogy be considered as bearing any relation to the succession of the crown.[24] It is certain nevertheless that,

[24] The Salic law simply provided that Salic land (*i.e.*, the allodial property of the tribe) should not descend to females, and is improperly applied to the law which excluded females from the crown. But from the accession of Philip the Long this so-called "Salic law has been regarded as an essential constitutional principle in France. The advantages of such an enactment are great and obvious. It secured the consolidation of the royal authority in the hands of a line of native princes; it tended to exclude foreign influence from the highest functions and affairs of state; and, by making it impossible that the crown of France should ever be acquired

from the time of Clovis, no woman had ever reigned in France; and although not an instance of a sole heiress had occurred before, yet some of the Merovingian kings left daughters, who might, if not rendered incapable by their sex, have shared with their brothers in partitions then commonly made. But, on the other hand, these times were gone quite out of memory, and France had much in the analogy of her existing usages to reconcile her to a female reign. The crown resembled a great fief; and the great fiefs might universally descend to women. Even at the consecration of Philip himself, Maud, countess of Artois, held the crown over his head among the other peers. And it was scarcely beyond the recollection of persons living that Blanche had been legitimate regent of France during the minority of St. Louis.

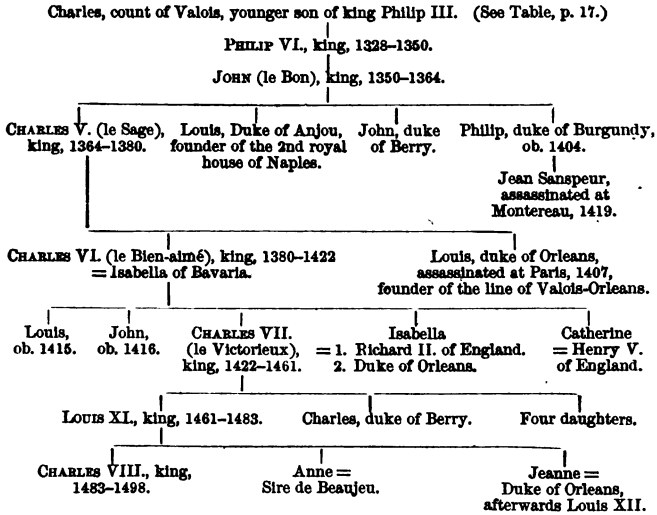
For these reasons, and much more from the provisional treaty concluded between Philip and the duke of Burgundy, it may be fairly inferred that the Salic law, as it was called, was not so fixed a principle at that time as has been contended. But however this may be, it received at the accession of Philip the Long a sanction which subsequent events more thoroughly confirmed. Philip himself leaving only three daughters, his brother Charles (A.D. 1322) mounted the throne; and upon his death (A.D. 1328) the rule was so unquestionably established, that his only daughter was excluded by the count of Valois, grandson of Philip the Bold. This prince first took the regency, the queen-dowager being pregnant, and, upon her giving birth to a daughter, was crowned king. No competitor or opponent appeared in France; but one more formidable than any whom France could have produced was awaiting the occasion to prosecute his imagined right with all the resources of valour and genius, and to carry desolation over that great kingdom with as little scruple as if he were preferring a suit before a civil tribunal.

§ 25. From the moment of Charles IV.'s death, Edward III. of England buoyed himself up with a notion of his title to the crown of France, in right of his mother Isabel, sister to the last three kings. We can have no hesitation in condemning the injustice of this pretension. Whether the Salic law were or were not valid, no advantage could be gained by Edward. Even if he could forget the express or tacit decision of all France, there stood in his way Jane, the daughter of Louis X., three of Philip the Long, and one of Charles the Fair. Aware of this, Edward set up a distinction, that, although females were excluded from succession, the same rule did not apply to their male issue; and thus, though his mother Isabel

by marriage, it cut off a dangerous temptation, which, in other countries, has produced destructive consequences." See Martin, vol. iv. p. 536; 'Student's Hist. of France,' p. 190.

could not herself become queen of France, she might transmit a title to him. But this was contrary to the commonest rules of inheritance; and if it could have been regarded at all, Jane had a son, afterwards the famous king of Navarre, who stood one degree nearer to the crown than Edward.

GENEALOGICAL TABLE OF THE HOUSE OF VALOIS OF FRANCE.



It is asserted in some French authorities that Edward preferred a claim to the regency immediately after the decease of Charles the Fair, and that the States-General, or at least the peers of France, adjudged that dignity to Philip de Valois. Whether this be true or not, it is clear that he entertained projects of recovering his right as early, though his youth and the embarrassed circumstances of his government threw insuperable obstacles in the way of their execution. He did liege homage, therefore, to Philip for Guienne, and for several years, while the affairs of Scotland engrossed his attention, gave no sign of meditating a more magnificent enterprise. As he advanced in manhood, and felt the consciousness of his strength, his early designs grew mature, and produced a series of the most important and interesting revolutions in the fortunes of France. These will form the subject of the ensuing pages.

PART II.

FROM THE ACCESSION OF PHILIP OF VALOIS TO THE INVASION OF NAPLES BY CHARLES VIII.

§ 1. War of Edward III. in France. § 2. Causes of his Success. § 3. Civil disturbances of France. § 4. Peace of Bretigni. § 5. Charles V. Renewal of the War. § 6. Charles VI. His Minority and Insanity. § 7. Civil Dissensions of the Parties of Orleans and Burgundy. Assassination of both these Princes. § 8. Intrigues of their Parties with England under Henry IV. Henry V. invades France. § 9. Treaty of Troyes. § 10. State of France in the first Years of Charles VII. § 11. Progress and subsequent Decline of the English Arms. § 12. Their Expulsion from France. § 13. Change in the Political Constitution. § 14. Louis XI. His Character. Leagues formed against him. § 15. Charles Duke of Burgundy. His Prosperity and Fall. § 16. Louis obtains possession of Burgundy. § 17. His death. § 18. Charles VIII. Acquisition of Britany.

§ 1. No war had broken out in Europe, since the fall of the Roman Empire, so memorable as that of Edward III. and his successors against France, whether we consider its duration, its object, or the magnitude and variety of its events. It was a struggle of 120 years, interrupted but once by a regular pacification, where the most ancient and extensive dominion in the civilized world was the prize, twice lost and twice recovered in the conflict, while individual courage was wrought up to that high pitch which it can seldom display since the regularity of modern tactics has chastised its enthusiasm and levelled its distinctions. There can be no occasion to dwell upon the events of this war, which are familiar to almost every reader: it is rather my aim to develop and arrange those circumstances which, when rightly understood, give the clue to its various changes of fortune.

§ 2. France was, even in the fourteenth century, a kingdom of such extent and compactness of figure, such population and resources, and filled with so spirited a nobility, that the very idea of subjugating it by a foreign force must have seemed the most extravagant dream of ambition. Yet, in the course of about twenty years of war, this mighty nation was reduced to the lowest state of exhaustion, and dismembered of considerable provinces by an ignominious peace. What was the combination of political causes which brought about so strange a revolution, and, though not realizing Edward's hopes to their extent, redeemed them from the imputation of rashness in the judgment of his own and succeeding ages?

The first advantage which Edward III. possessed in this contest was derived from the splendour of his personal character and from the still more eminent virtues of his son. Besides prudence and military skill, these great princes were endowed with qualities peculiarly fitted for the times in which they lived. Chivalry was then in its zenith; and in all the virtues which adorned the knightly character, in courtesy, munificence, gallantry, in all delicate and magnanimous feelings, none were so conspicuous as Edward III. and the Black Prince. As later princes have boasted of being the best gentlemen, they might claim to be the prowest knights in Europe—a character not quite dissimilar, yet of more high pretension. Their court was, as it were, the sun of that system which embraced the valour and nobility of the Christian world; and the respect which was felt for their excellences, while it drew many to their side, mitigated in all the rancour and ferociousness of hostility. This war was like a great tournament, where the combatants fought indeed *à outrance*, but with all the courtesy and fair play of such an entertainment, and almost as much for the honour of their ladies. In the school of the Edwards were formed men not inferior in any nobleness of disposition to their masters—Manni and the Captal de Buch, Knollys and Calverley, Chandos and Lancaster. On the French side, especially after Du Guesclin came on the stage, these had rivals almost equally deserving of renown. If we could forget, what never should be forgotten, the wretchedness and devastation that fell upon a great kingdom, too dear a price for the display of any heroism, we might count these English wars in France among the brightest periods in history.

Philip of Valois, and John his son, showed but poorly in comparison with their illustrious enemies. Yet they both had considerable virtues; they were brave, just, liberal, and the latter, in particular, of unshaken fidelity to his word. But neither was beloved by his subjects; the misgovernment and extortion of their predecessors during half a century had alienated the public mind, and rendered their own taxes and debasement of the coin intolerable. Philip was made by misfortune, John by nature, suspicious and austere; and although their most violent acts seem never to have wanted absolute justice, yet they were so ill conducted, and of so arbitrary a complexion, that they greatly impaired the reputation, as well as interests, of these monarchs.

Next to the personal qualities of the king of England, his resources in this war must be taken into the account. It was after long hesitation that he assumed the title and arms of France, from which, unless upon the best terms, he could not recede without loss of honour. In the mean time he strengthened himself by alliances with the emperor, with the cities of Flanders, and with most of the

princes in the Netherlands and on the Rhine. Yet I do not know that he profited much by these conventions, since he met with no success till the scene of the war was changed from the Flemish frontier to Normandy and Poitou. The troops of Hainault alone were constantly distinguished in his service.

But his intrinsic strength was at home. England had been growing in riches since the wise government of his grandfather, Edward I., and through the market opened for her wool with the manufacturing towns of Flanders. She was tranquil within; and her northern enemy, the Scotch, had been defeated and quelled. The parliament, after some slight precautions against a very probable effect of Edward's conquest of France, the reduction of their own island into a province, entered, as warmly as improvidently, into his quarrel. The people made it their own, and grew so intoxicated with the victories of this war, that for some centuries the injustice and folly of the enterprise do not seem to have struck the gravest of our countrymen.

There is, indeed, ample room for national exultation at the names of Crecy, Poitiers, and Azincourt. So great was the disparity of numbers upon those famous days, that we cannot, with the French historians, attribute the discomfiture of their hosts merely to mistaken tactics and too impetuous valour. They yielded rather to that intrepid steadiness in danger which had already become the characteristic of our English soldiers, and which, during five centuries, has insured their superiority, whenever ignorance or infatuation has not led them into the field. But these victories, and the qualities that secured them, must chiefly be ascribed to the freedom of our constitution, and to the superior condition of the people. Not the nobility of England, not the feudal tenants won the battles of Crecy and Poitiers; for these were fully matched in the ranks of France; but the yeomen who drew the bow with strong and steady arms, accustomed to use it in their native fields, and rendered fearless by personal competence and civil freedom. It is well known that each of the three great victories was due to our archers, who were chiefly of the middle class, and attached, according to the system of that age, to the knights and squires who fought in heavy armour with the lance. Even at the battle of Poitiers, of which our country seems to have the least right to boast, since the greater part of the Black Prince's small army was composed of Gascons, the merit of the English bowmen is strongly attested by Froissart.

§ 3. Yet the glorious termination to which Edward was enabled, at least for a time, to bring the contest, was rather the work of fortune than of valour and prudence. Until the battle of Poitiers he had made no progress towards the conquest of France. That country was too vast, and his army too small, for such a revolution. The

in taxes, rather than fall under the power of England. John with heaviness of heart persuaded these faithful people to comply with that destiny which he had not been able to surmount. At length they sullenly submitted: we will obey, they said, the English with our lips, but our hearts shall never forget their allegiance. Such unwilling subjects might perhaps have been won by a prudent government; but the temper of the Prince of Wales, which was rather stern and arbitrary, did not conciliate their hearts to his cause. After the expedition into Castile, a most injudicious and fatal enterprise, he attempted to impose a heavy tax upon Guienne. This was extended to the lands of the nobility, who claimed an immunity from all impositions. Many of the chief lords in Guienne and Gascony carried their complaints to the throne of Charles V., who had succeeded his father in 1364, appealing to him as the prince's sovereign and judge. After a year's delay the king ventured to summon the Black Prince to answer these charges before the peers of France, and the war immediately recommenced between the two countries (A.D. 1368).

§ 5. Though it is impossible to reconcile the conduct of Charles upon this occasion to the stern principles of rectitude which ought always to be obeyed, yet the exceeding injustice of Edward in the former war, and the miseries which he inflicted upon an unoffending people in the prosecution of his claim, will go far towards extenuating this breach of the treaty of Bretigni. The measures of Charles had been so sagaciously taken, that, except through that perverseness of fortune, against which, especially in war, there is no security, he could hardly fail of success. The elder Edward was declining through age, and the younger through disease; the ceded provinces were eager to return to their native king, and their garrisons, as we may infer by their easy reduction, feeble and ill-supplied. France, on the other hand, had recovered breath after her losses; the sons of those who had fallen or fled at Poitiers were in the field; a king, not personally warlike, but eminently wise and popular, occupied the throne of the rash and intemperate John. She was restored by the policy of Charles V. and the valour of Du Guesclin. This hero, a Breton gentleman without fortune or exterior graces, was the greatest ornament of France during that age. Though inferior, as it seems, to Lord Chandos in military skill, as well as in the polished virtues of chivalry, his unwearied activity, his talent of inspiring confidence, his good fortune, the generosity and frankness of his character, have preserved a fresh recollection of his name, which has hardly been the case with our countryman.

In a few campaigns the English were deprived of almost all their conquests, and even, in a great degree, of their original possessions in Guienne. They were still formidable enemies, not only from

their courage and alacrity in the war, but on account of the keys of France which they held in their hands; Bordeaux, Bayonne, and Calais, by inheritance or conquest; Brest and Cherbourg, in mortgage from their allies, the duke of Britany and king of Navarre. But the successor of Edward III. was Richard II.; a reign of feebleness and sedition gave no opportunity for prosecuting schemes of ambition. The war, protracted with few distinguished events for several years, was at length suspended by repeated armistices, not, indeed, very strictly observed, and which the animosity of the English would not permit to settle in any regular treaty. Nothing less than the terms obtained at Bretigni, emphatically called the Great Peace, would satisfy a frank and courageous people, who deemed themselves cheated by the manner of its infraction. The war was therefore always popular in England, and the credit which an ambitious prince, Thomas duke of Gloucester, obtained in that country, was chiefly owing to the determined opposition which he showed to all French connexions. But the politics of Richard II. were of a different cast; and Henry IV. was equally anxious to avoid hostilities with France; so that, before the unhappy condition of that kingdom tempted his son to revive the claims of Edward in still more favourable circumstances, there had been thirty years of respite, and even some intervals of friendly intercourse between the two nations.

§ 6. Charles V., surnamed the Wise, after a reign, which, if we overlook a little obliquity in the rupture of the peace of Bretigni, may be deemed one of the most honourable in French history, dying prematurely, left the crown to his son Charles VI. (A.D. 1380), a boy of thirteen, under the care of three ambitious uncles, the dukes of Anjou, Berry, and Burgundy. Charles V. had retrieved the glory, restored the tranquillity, revived the spirit of his country; the severe trials which exercised his regency after the battle of Poitiers had disciplined his mind; he became a sagacious statesman, an encourager of literature, a beneficent lawgiver. But all the fruits of his wisdom were lost in the succeeding reign. During the forty years that Charles VI. bore the name of king, rather than reigned in France, that country was reduced to a state far more deplorable than during the captivity of John.

A great change had occurred in the political condition of France during the fourteenth century. As the feudal militia became unserviceable, the expenses of war were increased through the necessity of taking troops into constant pay. Hence taxes, hitherto almost unknown, were levied incessantly, and with all those circumstances of oppression which are natural to the fiscal proceedings of an arbitrary government. The ill faith with which the new government imposed subsidies, after promising their abolition, provoked the

people of Paris, and sometimes of other places, to repeated seditions. The States-General not only compelled the government to revoke these impositions and restore the nation, at least according to the language of edicts, to all their liberties, but, with less wisdom, refused to make any grant of money. Indeed a remarkable spirit of democratical freedom was then rising in those classes on whom the crown and nobility had so long trampled. An example was held out by the Flemings, who, always tenacious of their privileges, because conscious of their ability to maintain them, were engaged in a furious conflict with Louis count of Flanders. The court of France took part in this war; and after obtaining a decisive victory over the citizens of Ghent, Charles V. returned to chastise those of Paris. Unable to resist the royal army, the city was treated as the spoil of conquest; its immunities abridged; its most active leaders put to death; a fine of uncommon severity imposed; and the taxes renewed by arbitrary prerogative. But the people preserved their indignation for a favourable moment; and were unfortunately led by it, when rendered subservient to the ambition of others, into a series of crimes, and a long alienation from the interests of their country.

Though Charles VI. was considered from the time of his coronation as reigning with full personal authority, the actual exercise of government was divided between Anjou, Berry, and Burgundy, together with the king's maternal uncle, the duke of Bourbon. The first of these soon undertook an expedition into Italy, to possess himself of the crown of Naples, in which he perished. Berry was a profuse and voluptuous man, of no great talents; though his rank, and the middle position which he held between struggling parties, made him rather conspicuous throughout the revolutions of that age. The most respectacle of the king's uncles, the duke of Bourbon, being further removed from the royal stem, and of an unassuming character, took a less active part than his three coadjutors. Burgundy, an ambitious and able prince, maintained the ascendancy, until Charles, weary of a restraint which had been protracted by his uncle till he was in his twenty-first year, took the reins into his own hands (A.D. 1387). The dukes of Burgundy and Berry retired from court, and the administration was committed to a different set of men, at the head of whom appeared the constable de Clisson, a soldier of great fame in the English wars. The people rejoiced in the fall of the princes by whose exactions they had been plundered; but the new ministers soon rendered themselves odious by similar conduct.

Charles VI. had reigned five years from his assumption of power, when he was seized with a derangement of intellect (A.D. 1393), which continued, through a series of recoveries and relapses, to his

death. He passed thirty years in a pitiable state of suffering, neglected by his family, particularly by the most infamous of women, Isabel of Bavaria, his queen, to a degree which is hardly credible.[3] The ministers were immediately disgraced; the princes reassumed their stations.

§ 7. For several years the duke of Burgundy conducted the government. But this was in opposition to a formidable rival, Louis duke of Orleans, the king's brother. It was impossible that a prince so near to the throne, favoured by the queen perhaps with criminal fondness, and by the people on account of his external graces, should not acquire a share of power. He succeeded at length in obtaining the whole management of affairs; wherein the outrageous dissoluteness of his conduct, and still more the excessive taxes imposed, render him altogether odious. The Parisians compared his administration with that of the duke of Burgundy; and from that time ranged themselves on the side of the latter and his family, throughout the long distractions to which the ambition of these princes gave birth.

The death of the duke of Burgundy, in 1404, after several fluctuations of success between him and the duke of Orleans, by no means left his party without a head. Equally brave and ambitious, but far more audacious and unprincipled, his son John, surnamed Sanspeur, sustained the same contest. A reconciliation had been, however, brought about with the duke of Orleans; they had sworn reciprocal friendship, and participated, as was the custom, in order to render these obligations more solemn, in the same communion. In the midst of this outward harmony, the duke of Orleans was assassinated in the streets of Paris (A.D. 1407). After a slight attempt at concealment, Burgundy avowed and boasted of the crime. From this fatal moment the dissensions of the royal family began to assume the complexion of civil war. The queen, the sons of the duke of Orleans, with the dukes of Berry and Bourbon, united against the assassin. But he possessed, in addition to his own appanage of Burgundy, the county of Flanders as his maternal inheritance; and the people of Paris, who hated the duke of Orleans, readily forgave or rather exulted in his murder. He soon obtained the management of affairs, and drove his adversaries from the

[3] Sismondi inclines to speak more favourably of this queen than most have done. He discredits the suspicion of a criminal intercourse with the duke of Orleans, and represents her as merely an indolent woman fond of good cheer. Yet he owns that the king was so neglected as to suffer from an excessive want of cleanliness, sometimes even from hunger (xii. 218, 225). Was this no imputation on his wife? Martin says that contemporary writers do not mention expressly the criminal intercourse between Isabel and the duke of Orleans, but he adds, "ce qu'on sait des mœurs du duc et de sa belle-sœur permet difficilement de croire en l'innocence de leur intimité," (v. 471).

capital. The princes, headed by the father-in-law of the young duke of Orleans, the count of Armagnac, from whom their party was now denominated, raised their standard against him; and the north of France was rent to pieces by a protracted civil war, in which neither party scrupled any extremity of pillage or massacre. The dauphin, aware of the tyranny which the two parties alternately exercised, was forced, even at the expense of perpetuating a civil war, to balance one against the other, and permit neither to be wholly subdued. In 1417 the count of Armagnac, now constable of France, was in possession of the government. But his severity, and the weight of taxes, revived the Burgundian party in Paris, which a rigid proscription had endeavoured to destroy. He brought on his head the implacable hatred of the queen, whom he had not only shut out from public affairs, but disgraced by the detection of her gallantries. Notwithstanding her ancient enmity to the duke of Burgundy, she made overtures to him, and, being delivered by his troops from confinement, declared herself openly on his side. A few obscure persons stole the city keys, and admitted the Burgundians into Paris. The tumult which arose showed in a moment the disposition of the inhabitants; but this was more horribly displayed a few days afterwards, when the populace, rushing to the prisons, massacred the constable d'Armagnac and his partisans (A.D. 1418). Between three and four thousand persons were murdered on this day, which has no parallel but what the last age witnessed, in the massacre perpetrated by the same ferocious populace of Paris under circumstances nearly similar. Not long afterwards an agreement took place between the duke of Burgundy, who had now the king's person as well as the capital in his hands, and the dauphin, whose party was enfeebled by the loss of almost all its leaders. This reconciliation, which mutual interest should have rendered permanent, had lasted a very short time, when the duke of Burgundy was assassinated at Montereau, at an interview with Charles, in his presence, and by the hands of his friends, though not, perhaps, with his previous knowledge (A.D. 1419). From whomsoever the crime proceeded, it was a deed of infatuation, and plunged France afresh into a sea of perils, from which the union of these factions had just afforded a hope of extricating her.

§ 8. It has been mentioned already that the English war had almost ceased during the reigns of Richard II. and Henry IV. A long commercial connexion had subsisted between England and Flanders, which the dukes of Burgundy, when they became sovereigns of the latter country upon the death of count Louis, in 1384, were studious to preserve by separate truces. They acted upon the same pacific policy when their interest predominated in the councils of France. Henry had even a negotiation pending for the marriage

of his eldest son with a princess of Burgundy, when an unexpected proposal from the opposite side set more tempting views before his eyes. The Armagnacs, pressed hard by the duke of Burgundy, offered, in consideration of only 4000 troops, the pay of which they would themselves defray, to assist him in the recovery of Guienne and Poitou. Four princes of the blood—Berry, Bourbon, Orleans, and Alençon—disgraced their names by signing this treaty (May, 1412). Henry broke off his alliance with Burgundy, and sent a force into France, which found on its arrival that the princes had made a separate treaty, without the least concern for their English allies. After his death, Henry V. engaged for some time in a series of negotiations with the French court, where the Orleans party now prevailed, and with the duke of Burgundy. He even secretly treated at the same time for a marriage with Catherine of France (which seems to have been his favourite, as it was ultimately his successful, project), and with a daughter of the duke—a duplicity not creditable to his memory. But Henry's ambition, which aimed at the highest quarry, was not long fettered by negotiation; and, indeed, his proposals of marrying Catherine were coupled with such exorbitant demands, as France, notwithstanding all her weakness, could not admit, though she would have ceded Guienne, and given a vast dowry with the princess. He invaded Normandy, took Harfleur, and won the great battle of Azincourt on his march to Calais (A.D. 1415).

The flower of French chivalry was mowed down in this fatal day, but especially the chiefs of the Orleans party, and the princes of the royal blood, met with death or captivity. Burgundy had still suffered nothing; but a clandestine negotiation had secured the duke's neutrality, though he seems not to have entered into a regular alliance till a year after the battle of Azincourt, when, by a secret treaty at Calais, he acknowledged the right of Henry to the crown of France, and his own obligation to do him homage, though its performance was to be suspended till Henry should become master of a considerable part of the kingdom. In a second invasion the English achieved the conquest of Normandy; and this, in all subsequent negotiations for peace during the life of Henry, he would never consent to relinquish. After several conferences, which his demands rendered abortive, the French court at length consented to add Normandy to the cessions made in the peace at Bretigni; and the treaty, though labouring under some difficulties, seems to have been nearly completed, when the duke of Burgundy, for reasons unexplained, suddenly came to a reconciliation with the dauphin (July 11, 1419). This event, which must have been intended adversely to Henry, would probably have broken off all parley on the subject of peace, if it had not been speedily followed

by one still more surprising, the assassination of the duke of Burgundy at Montereau already mentioned (Sept. 10, 1419).

§ 9. An act of treachery so apparently unprovoked inflamed the minds of that powerful party which had looked up to the duke as their leader and patron. The city of Paris, especially, abjured at once its respect for the supposed author of the murder, though the legitimate heir of the crown. A solemn oath was taken by all ranks to revenge the crime; the nobility, the clergy, the parliament, vying with the populace in their invectives against Charles, whom they now styled only pretended (soi-disant) dauphin. Philip, son of the assassinated duke, who, with all the popularity and much of the ability of his father, did not inherit all his depravity, was instigated by a pardonable excess of filial resentment to ally himself with the king of England. These passions of the people, and the duke of Burgundy, concurring with the imbecility of Charles VI. and the rancour of Isabel towards her son, led to the treaty of Troyes (May, 1420). This compact, signed by the queen and duke, as proxies of the king, who had fallen into a state of unconscious idiotcy, stipulated that Henry V., upon his marriage with Catherine, should become immediately regent of France, and, after the death of Charles, succeed to the kingdom, in exclusion not only of the dauphin, but of all the royal family. It is unnecessary to remark that these flagitious provisions were absolutely invalid. But they had at the time the strong sanction of force; and Henry might plausibly flatter himself with a hope of establishing his own usurpation as firmly in France as his father's had been in England. What not even the comprehensive policy of Edward III., the energy of the Black Prince, the valour of their Knollyses and Chandoses, nor his own victories could attain, now seemed, by a strange vicissitude of fortune, to court his ambition. During two years that Henry lived after the treaty of Troyes, he governed the north of France with unlimited authority in the name of Charles VI. The latter survived his son-in-law but a few weeks; and the infant Henry VI. was immediately proclaimed king of France and England, under the regency of his uncle the duke of Bedford.

§ 10. Notwithstanding the disadvantage of a minority, the English cause was less weakened by the death of Henry than might have been expected. The duke of Bedford partook of the same character, and resembled his brother in faults as well as virtues; in his haughtiness and arbitrary temper as in his energy and address. At the accession of Charles VII. (A.D. 1422) the usurper was acknowledged by all the northern provinces of France, except a few fortresses, by most of Guienne, and the dominions of Burgundy. The duke of Britany soon afterwards acceded to the treaty of Troyes, but changed his party again several times within a few years. The central pro-

vinces, with Languedoc, Poitou, and Dauphiné, were faithful to the king. For some years the war continued without any decisive result; but the balance was clearly swayed in favour of England. For this it is not difficult to assign several causes. The animosity of the Parisians and the duke of Burgundy against the Armagnac party still continued, mingled in the former with dread of the king's return, whom they judged themselves to have inexpiably offended. The war had brought forward some accomplished commanders in the English army; surpassing, not indeed in valour and enterprise, but in military skill, any whom France could oppose to them. Of these the most distinguished, besides the duke of Bedford himself, were Warwick, Salisbury, and Talbot. Their troops, too, were still very superior to the French. But this, we must in candour allow, proceeded in a great degree from the mode in which they were raised. The war was so popular in England, that it was easy to pick the best and stoutest recruits, and their high pay allured men of respectable condition to the service. We find in Rymer a contract of the Earl of Salisbury to supply a body of troops, receiving a shilling a day for every man-at-arms, and sixpence for each archer.[4] This is, perhaps, equal to fifteen times the sum at our present value of money. They were bound, indeed, to furnish their own equipments and horses. But France was totally exhausted by her civil and foreign war, and incompetent to defray the expenses even of the small force which defended the wreck of the monarchy. Charles VII. lived in the utmost poverty at Bourges. The nobility had scarcely recovered from the fatal slaughter of Azincourt; and the infantry, composed of peasants or burgesses, which had made their army so numerous upon that day, whether from inability to compel their services, or experience of their inefficacy, were never called into the field.

It was, however, in the temper of Charles VII. that his enemies found their chief advantage. This prince is one of the few whose character has been improved by prosperity. During the calamitous morning of his reign he shrunk from fronting the storm, and strove to forget himself in pleasure. Though brave, he was never seen in war; though intelligent, he was governed by flatterers. Those who had committed the assassination at Montereau under his eyes were his first favourites; as if he had determined to avoid the only measure through which he could hope for better success, a reconciliation with the duke of Burgundy.

[4] Rym. t. x. p. 392. This contract was for 600 men-at-arms, including six bannerets and thirty-four bachelors; and for 1700 archers; bien et suffisamment montez, armez, et arraiez comme a leurs estats appartient. The pay was, for the earl, 6*s.* 8*d.* a day; for a banneret, 4*s.*; for a bachelor, 2*s.*; for every other man-at-arms, 1*s.*; and for each archer, 6*d.* Artillerymen were paid higher than men-at-arms.

§ 11. It cannot therefore surprise us that with all these advantages the regent duke of Bedford had almost completed the capture of the fortresses north of the Loire when he invested Orleans in 1428. If this city had fallen, the central provinces, which were less furnished with defensible places, would have lain open to the enemy; and it is said that Charles VII. in despair was about to retire into Dauphiné. At this time his affairs were restored by one of the most marvellous revolutions in history. A country girl overthrew the power of England. We cannot pretend to explain the surprising story of the Maid of Orleans; for, however easy it may be to suppose that a heated and enthusiastic imagination produced her own visions, it is a much greater problem to account for the credit they obtained, and for the success that attended her. Nor will this be solved by the hypothesis of a concerted stratagem; which, if we do not judge altogether from events, must appear liable to so many chances of failure, that it could not have suggested itself to any rational person. However, it is certain that the appearance of Joan of Arc[5] turned the tide of war, which from that moment flowed without interruption in Charles's favour. A superstitious awe enfeebled the sinews of the English. They hung back in their own country, or deserted from the army, through fear of the incantations by which alone they conceived so extraordinary a person to succeed. As men always make sure of Providence for an ally, whatever untoward fortune appeared to result from preternatural causes was at once ascribed to infernal enemies; and such bigotry may be pleaded as an excuse, though a very miserable one, for the detestable murder of this heroine.

The spirit which Joan of Arc had roused did not subside. France recovered confidence in her own strength, which had been chilled by a long course of adverse fortune. The king, too, shook off his indolence,[6] and permitted Richemont, brother of the duke of Britany, to

[5] I have followed the common practice of translating Jeanne d'Arc by Joan of Arc. It does not appear, however, that any such place as Arc exists in that neighbourhood, though there is a town of that name at a considerable distance. Joan was, as is known, a native of the village of Domremy in Lorraine. The correct orthography of her name is Darc, as is shown by Michelet and H. Martin.

[6] It is a current piece of history that Agnes Sorel, mistress of Charles VII., had the merit of dissuading him from giving up the kingdom as lost at the time when Orleans was besieged in 1428. Mezeray, Daniel, Villaret, and, I believe, every other modern historian, have mentioned this circumstance; and some of them, among whom is Hume, with the addition that Agnes threatened to leave the court of Charles for that of Henry, affirming that she was born to be the mistress of a great king. The latter part of this tale is evidently a fabrication, Henry VI. being at the time a child of seven years old. But the story is not mentioned by contemporary writers, and Martin has shown (vi. 321) that Charles did not become acquainted with Agnes Sorel before 1433; consequently five years after the siege of Orleans. The tradition, however, is as ancient as Francis I., who made in her honour a quatrain which is well known. This probably may have brought the story more into vogue, and led Mezeray, who was not very critical, to insert it in his

exclude his unworthy favourites from the court. This led to a very important consequence. The duke of Burgundy, whose alliance with England had been only the fruit of indignation at his father's murder, fell naturally, as that passion wore out, into sentiments more congenial to his birth and interests. A prince of the house of Capet could not willingly see the inheritance of his ancestors transferred to a stranger. Yet the union of his sister with Bedford, the obligations by which he was bound, and, most of all, the favour shown by Charles VII. to the assassins of his father, kept him for many years on the English side, although rendering it less and less assistance. But at length he concluded a treaty at Arras (A.D. 1435), the terms of which he dictated rather as a conqueror than a subject negotiating with his sovereign. Charles, however, refused nothing for such an end; and, in a very short time, the Burgundians were ranged with the French against their old allies of England.

§ 12. It was now time for the latter to abandon those magnificent projects of conquering France which temporary circumstances alone had seemed to render feasible. As foreign enemies, they were odious even in that part of France which had acknowledged Henry; and when the duke of Burgundy deserted their side, Paris and every other city were impatient to throw off the yoke. A feeble monarchy, and a selfish council, completed their ruin: the necessary subsidies were raised with difficulty, and, when raised, misapplied. It is a proof of the exhaustion of France, that Charles was unable, for several years, to reduce Normandy or Guienne, which were so ill-provided for defence. At last he came with collected strength to the contest, and, breaking an armistice upon slight pretences, within two years overwhelmed the English garrisons in each of these provinces (A.D. 1449). All the inheritance of Henry II. and Eleanor, all the conquests of Edward III. and Henry V. except Calais and a small adjacent district, were irrecoverably torn from the crown of England. A barren title, that idle trophy of disappointed ambition, was preserved with strange obstinacy to our own age.

§ 13. At the expulsion of the English, France emerged from the chaos with an altered character and new features of government. The royal authority and supreme jurisdiction of the parliament were universally recognized. Yet there was a tendency towards insubordination left among the great nobility, arising in part from the remains of old feudal privileges, but still more from that lax ad-

history, from which it has passed to his followers. Its origin was apparently the popular character of Agnes. She was the Nell Gwyn of France; and justly beloved, not only for her charity and courtesy, but for bringing forward men of merit and turning her influence, a virtue very rare in her class, towards the public interest. From thence it was natural to bestow upon her, in after times, a merit not ill suited to her character, but which an accurate observation of dates renders impossible.

ministration which, in the convulsive struggles of the war, had been suffered to prevail. In the south were some considerable vassals, the houses of Foix, Albret, and Armagnac, who, on account of their distance from the seat of empire, had always maintained a very independent conduct. The dukes of Britany and Burgundy were of a more formidable character, and might rather be ranked among foreign powers than privileged subjects. The princes, too, of the royal blood, who, during the late reign, had learned to partake or contend for the management, were ill-inclined towards Charles VII., himself jealous, from old recollections, of their ascendancy. They saw that the constitution was verging rapidly towards an absolute monarchy, from the direction of which they would studiously be excluded. This apprehension gave rise to several attempts at rebellion during the reign of Charles VII. Among the pretences alleged by the revolters in each of these, the injuries of the people were not forgotten; but from the people they received small support. Weary of civil dissension, and anxious for a strong government to secure them from depredations, the French had no inducement to intrust even their real grievances to a few malcontent princes, whose regard for the common good they had much reason to distrust. Every circumstance favoured Charles VII. and his son in the attainment of arbitrary power. The country was pillaged by military ruffians. Charles established his companies of ordonnance, the basis of the French regular army, in order to protect the country from such depredators. They consisted of about 9000 soldiers, all cavalry, of whom 1500 were heavy-armed; a force not very considerable, but the first, except mere body-guards, which had been raised in any part of Europe as a national standing army. These troops were paid out of the produce of a permanent tax, called the taille; an innovation still more important than the former. But the present benefit cheating the people, now prone to submissive habits, little or no opposition was made, except in Guienne, the inhabitants of which had speedy reason to regret the mild government of England, and vainly endeavoured to return to its protection.

§ 14. It was not long before the new despotism exhibited itself in its harshest character. Louis XI., son of Charles VII., who, during his father's reign, had been connected with the discontented princes, came to the throne (A.D. 1461) greatly endowed with those virtues and vices which conspire to the success of a king. Laborious vigilance in business, contempt of pomp, affability to inferiors, were his excellences; qualities especially praiseworthy in an age characterized by idleness, love of pageantry, and insolence. To these virtues he added a perfect knowledge of all persons eminent for talents or influence in the countries with which he was connected, and a well-judged bounty, that thought no expense wasted to draw them into

his service or interest. In the fifteenth century this political art had hardly been known, except perhaps in Italy; the princes of Europe had contended with each other by arms, sometimes by treachery, but never with such complicated subtlety of intrigue. Of that insidious cunning, which has since been brought to perfection, Louis XI. may be deemed not absolutely the inventor, but the most eminent improver; and its success has led, perhaps, to too high an estimate of his abilities. Like most bad men, he sometimes fell into his own snare, and was betrayed by his confidential ministers, because his confidence was generally reposed in the wicked. And his dissimulation was so notorious, his tyranny so oppressive, that he was naturally surrounded by enemies, and had occasion for all his craft to elude those rebellions and confederacies which might perhaps not have been raised against a more upright sovereign. At one time the monarchy was on the point of sinking before a combination which would have ended in dismembering France. This was the league denominated of the Public Weal (A.D. 1461), in which all the princes and great vassals of the French crown were concerned: the dukes of Britany, Burgundy, Alençon, Bourbon, the count of Dunois, so renowned for his valour in the English wars, the families of Foix and Armagnac; and at the head of all, Charles duke of Berry, the king's brother and presumptive heir. So unanimous a combination was not formed without a strong provocation from the king, or at least without weighty grounds for distrusting his intentions; but the more remote cause of this confederacy, as of those which had been raised against Charles VII., was the critical position of the feudal aristocracy from the increasing power of the crown. This war of the Public Weal was, in fact, a struggle to preserve their independence; and from the weak character of the duke of Berry, whom they would, if successful, have placed upon the throne, it is possible that France might have been in a manner partitioned among them in the event of their success, or, at least, that Burgundy and Britany would have thrown off the sovereignty that galled them.

The strength of the confederates in this war much exceeded that of the king; but it was not judiciously employed; and after an indecisive battle at Montlhéry they failed in the great object of reducing Paris, which would have obliged Louis to fly from his dominions. It was his policy to promise everything, in trust that fortune would afford some opening to repair his losses and give scope to his superior prudence. Accordingly, by the treaty of Conflans, he not only surrendered afresh the towns upon the Somme, which he had lately redeemed from the duke of Burgundy, but invested his brother with the duchy of Normandy as his appanage.

The term appanage denotes the provision made for the younger

children of the king of France. This always consisted of lands and feudal superiorities held of the crown by the tenure of peerage. It is evident that this usage, as it produced a new class of powerful feudatories, was hostile to the interests and policy of the sovereign, and retarded the subjugation of the ancient aristocracy. But an usage coeval with the monarchy was not to be abrogated, and the scarcity of money rendered it impossible to provide for the younger branches of the royal family by any other means. It was restrained however, as far as circumstances would permit. Philip IV. declared that the county of Poitiers, bestowed by him on his son, should revert to the crown on the extinction of male heirs. But this, though an important precedent, was not, as has often been asserted, a general law. Charles V. limited the appanages of his own sons to twelve thousand livres of annual value in land. By means of their appanages, and through the operation of the Salic law, which made their inheritance of the crown a less remote contingency, the princes of the blood royal in France were at all times (for the remark is applicable long after Louis XI.) a distinct and formidable class of men, whose influence was always disadvantageous to the reigning monarch, and, in general, to the people.

No appanage had ever been granted to France so enormous as the duchy of Normandy. One-third of the whole national revenue, it is declared, was derived from that rich province. Louis could not, therefore, sit down under such terms as, with his usual insincerity, he had accepted at Conflans. In a very short time he attacked Normandy, and easily compelled his brother to take refuge in Britany; nor were his enemies ever able to procure the restitution of Charles's appanage. During the rest of his reign Louis had powerful coalitions to withstand; but his prudence and compliance with circumstances, joined to some mixture of good fortune, brought him safely through his perils. The duke of Britany, a prince of moderate talents, was unable to make any formidable impression, though generally leagued with the enemies of the king. The less powerful vassals were successfully crushed by Louis with decisive vigour; the duchy of Alençon was confiscated; the count of Armagnac was assassinated; the duke of Nemours, and the constable of St. Poll, a politician as treacherous as Louis, who had long betrayed both him and the duke of Burgundy, suffered upon the scaffold. The king's brother Charles, after disquieting him for many years, died suddenly in Guienne, which had finally been granted as his appanage (A.D. 1472). Edward IV. of England was too dissipated and too indolent to be fond of war; and, though he once entered France with an army more considerable than could have been expected after such civil bloodshed as England had witnessed, he was induced, by the stipulation of a large pension, to give up the enter-

prise. So terrible was still in France the apprehension of an English war, that Louis prided himself upon no part of his policy so much as the warding this blow (A.D. 1475). Edward showed a desire to visit Paris; but the king gave him no invitation, lest, he said, his brother should find some handsome woman there, who might tempt him to return in a different manner. Hastings, Howard, and others of Edward's ministers, were secured by bribes in the interest of Louis, which the first of these did not scruple to receive at the same time from the duke of Burgundy.

§ 15. This was the most powerful enemy whom the craft of Louis had to counteract. In the last days of the feudal system when the house of Capet had almost achieved the subjugation of those proud vassals among whom it had been originally numbered, a new antagonist sprang up to dispute the field against the crown. John king of France granted the duchy of Burgundy, by way of appanage, to his third son, Philip. By his marriage with Margaret, heiress of Louis count of Flanders, Philip acquired that province, Artois, the *county* of Burgundy[7] (or Franche-comté), and the Nivernois. Philip the Good, his grandson, who carried the prosperity of this family to its height, possessed himself, by various titles, of the several other provinces which composed the Netherlands. These were fiefs of the empire, but latterly not much dependent upon it, and alienated by their owners without its consent. At the peace of Arras the districts of Macon and Auxerre were absolutely ceded to Philip, and great part of Picardy conditionally made over to him, redeemable on the payment of four hundred

GENEALOGICAL TABLE OF THE SECOND DUCAL HOUSE OF BURGUNDY.

John, king of France, inherits the duchy as nearest heir male of the late duke Philippe de Rouvre, 1361.

Philip, fourth son of king John, created duke of Burgundy, 1364, ob. 1404.

Jean Sansperur, killed at Montereau, 1419.

Philip (le Bon), ob. 1467.

Charles (le Téméraire), ob. 1477.

Mary, duchess of Burgundy = Maximilian, archduke of Austria.

Philip, archduke of Austria, and sovereign of the Netherlands, ob. 1506. = Juana, heiress of Castile and Aragon.

Charles V., king of Spain, sovereign of the Netherlands, and emperor, 1519.

thousand crowns. These extensive, though not compact dominions, were abundant in population and wealth, fertile in corn, wine, and salt, and full of commercial activity. Thirty years of peace which

[7] See NOTE VIII., p. 63.

followed the treaty of Arras, with a mild and free government, raised the subjects of Burgundy to a degree of prosperity quite unparalleled in these times of disorder; and this was displayed in general sumptuousness of dress and feasting. The court of Philip and of his son Charles was distinguished for its pomp and riches, for pageants and tournaments; the trappings of chivalry, perhaps without its spirit; for the military character of Burgundy had been impaired by long tranquillity.

During the lives of Philip and Charles VII. each understood the other's rank, and their amity was little interrupted. But their successors, the most opposite of human kind in character, had one common quality, ambition, to render their antipathy more powerful. Louis was eminently timid and suspicious in policy; Charles intrepid beyond all men, and blindly presumptuous; Louis stooped to any humiliation to reach his aim; Charles was too haughty to seek the fairest means of strengthening his party. An alliance of his daughter with the duke of Guienne, brother of Louis, was what the malcontent French princes most desired and the king most dreaded; but Charles, either averse to any French connexion, or willing to keep his daughter's suitors in dependence, would never directly accede to that or any other proposition for her marriage. On Philip's death, in 1467, he inherited a great treasure, which he soon wasted in the prosecution of his schemes. These were so numerous and vast, that he had not time to live, says Comines, to complete them, nor would one-half of Europe have contented him. It was his intention to assume the title of king; and the emperor Frederic III. was at one time actually on his road to confer this dignity, when some suspicion caused him to retire, and the project was never renewed. It is evident that, if Charles's capacity had borne any proportion to his pride and courage, or if a prince less politic than Louis XI. had been his contemporary in France, the province of Burgundy must have been lost to the monarchy. For several years these great rivals were engaged, sometimes in open hostility, sometimes in endeavours to overreach each other; but Charles, though not much more scrupulous, was far less an adept in these mysteries of politics than the king.

Notwithstanding the power of Burgundy, there were some disadvantages in its situation. It presented (I speak of all Charles's dominions under the common name, Burgundy) a very exposed frontier on the side of Germany and Switzerland, as well as France; and Louis exerted a considerable influence over the adjacent princes of the empire, as well as the united Cantons. The people of Liege, a very populous city, had for a long time been continually rebelling against their bishops, who were the allies of Burgundy; Louis was of course not backward to foment their insurrections, which some-

times gave the dukes a good deal of trouble. The Flemings, and especially the people of Ghent, had been during a century noted for their republican spirit and contumacious defiance of their sovereign. Liberty never wore a more unamiable countenance than among these burghers, who abused the strength she gave them by cruelty and insolence. Ghent was absolutely impregnable at a time when artillery was very imperfect both in its construction and management. Hence, though the citizens of Ghent were generally beaten in the field with great slaughter, they obtained tolerable terms from their masters, who knew the danger of forcing them to a desperate defence.

An almost uninterrupted success had attended the duke's enterprises for a length of time, and rendered his disposition still more overweening. His first failure was before Neuss, a little town near Cologne (A.D. 1474), the possession of which would have made him nearly master of the whole course of the Rhine, for he had already obtained the landgraviate of Alsace. Though compelled to raise the siege, he succeeded in occupying, next year, the duchy of Lorraine. But his overthrow was reserved for an enemy whom he despised, and whom none could have thought equal to the contest. The Swiss had given him some slight provocation, for which they were ready to atone; but Charles was unused to forbear; and perhaps Switzerland came within his projects of conquest. At Granson, in the Pays de Vaud, he was entirely routed, with more disgrace than slaughter. But having reassembled his troops and met the confederate army of Swiss and Germans at Morat, near Friburg, he was again defeated with vast loss. On this day the power of Burgundy was dissipated: deserted by his allies, betrayed by his mercenaries, he set his life upon another cast at Nancy, desperately giving battle to the duke of Lorraine with a small dispirited army, and perished in the engagement (A.D. 1477).

§ 16. Now was the moment when Louis, who had held back while his enemy was breaking his force against the rocks of Switzerland, came to gather a harvest which his labour had not reaped. Charles left an only daughter, undoubted heiress of Flanders and Artois, as well as of his dominions out of France, but whose right of succession to the duchy of Burgundy was more questionable. Originally the great fief of the crown descended to females, and this was the case with respect to the two first mentioned. But John had granted Burgundy to his son Philip by way of appanage; and it was contended that the appanages reverted to the crown in default of male heirs. In the form of Philip's investiture, the duchy was granted to him and his lawful heirs, without designation of sex. The construction, therefore, must be left to the established course of law. This, however, was by no means acknowledged by Mary,

Charles's daughter, who maintained both that no general law restricted appanages to male heirs, and that Burgundy had always been considered as a feminine fief, John himself having possessed it, not by reversion as king (for descendants of the first dukes were then living), but by inheritance derived through females.

There was one obvious mode of preventing all further contest and of aggrandizing the French monarchy far more than by the reunion of Burgundy. This was the marriage of Mary with the dauphin, which was ardently wished in France. Whatever obstacles might occur to this connexion it was natural to expect on the opposite side—from Mary's repugnance to an infant husband, or from the jealousy which her subjects were likely to entertain of being incorporated with a country worse governed than their own. The arts of Louis would have been well employed in smoothing these impediments. But he chose to seize upon as many towns as, in those critical circumstances, lay exposed to him, and stripped the young duchess of Artois and Franche-comté. Expectations of the marriage he sometimes held out, but, as it seems, without sincerity. Indeed he contrived irreconcileably to alienate Mary by a shameful perfidy, betraying the ministers whom she had intrusted upon a secret mission to the people of Ghent, who put them to the torture, and afterwards to death, in the presence and amidst the tears and supplications of their mistress. Thus the French alliance becoming odious in France, this princess married (A.D. 1477) Maximilian of Austria, son of the emperor Frederic—a connexion which Louis strove to prevent, though it was impossible then to foresee that it was ordained to retard the growth of France and to bias the fate of Europe during three hundred years. This war lasted till after the death of Mary, who left one son, Philip, and one daughter, Margaret. By a treaty of peace concluded at Arras, in 1482, it was agreed that this daughter should become the dauphin's wife, with Franche-comté and Artois, which Louis held already, for her dowry, to be restored in case the marriage should not take effect. The homage of Flanders was reserved to the crown.

§ 17. Meanwhile Louis was lingering in disease and torments of mind, the retribution of fraud and tyranny. Two years before his death he was struck with an apoplexy, from which he never wholly recovered. As he felt his disorder increasing, he shut himself up in a palace near Tours, to hide from the world the knowledge of his decline.[8] His solitude was like that of Tiberius at Capreæ, full of terror and suspicion, and deep consciousness of universal hatred.

[8] Plessis, his last residence, about an English mile from Tours, is now a dilapidated farm-house, and can never have been a very large building. The vestiges of royalty about it are few; but the principal apartments have been destroyed, either in the course of ages or at the revolution.

All ranks, he well knew, had their several injuries to remember: the clergy, whose liberties he had sacrificed to the see of Rome, by revoking the Pragmatic Sanction of Charles VII.; the princes, whose blood he had poured upon the scaffold; the parliament, whose course of justice he had turned aside; the commons, who groaned under his extortion, and were plundered by his soldiery.[9] The palace, fenced with portcullises and spikes of iron, was guarded by archers and cross-bow men, who shot at any that approached by night. Few entered this den; but to them he showed himself in magnificent apparel, contrary to his former custom, hoping thus to disguise the change of his meagre body. He distrusted his friends and kindred, his daughter and his son, the last of whom he had not suffered even to read or write, lest he should too soon become his rival. No man ever so much feared death, to avert which he stooped to every meanness and sought every remedy. His physician had sworn that if he were dismissed the king would not survive a week; and Louis, enfeebled by sickness and terror, bore the rudest usage from this man, and endeavoured to secure his services by vast rewards. Always credulous in relics, though seldom restrained by superstition from any crime, he eagerly bought up treasures of this sort, and even procured a Calabrian hermit, of noted sanctity, to journey as far as Tours in order to restore his health. Philip de Comines, who attended him during his infirmity, draws a parallel between the torments he then endured and those he had formerly inflicted on others. Indeed the whole of his life was vexation of spirit. "I have known him," says Comines, "and been his servant in the flower of his age, and in the time of his greatest prosperity; but never did I see him without uneasiness and care. Of all amusements he loved only the chace, and hawking in its season. And in this he had almost as much uneasiness as pleasure; for he rode hard and got up early, and sometimes went a great way, and regarded no weather; so that he used to return very weary, and almost ever in wrath with some one. I think that from his childhood he never had any respite of labour and trouble to his death. And I am certain that, if all the happy days of his life, in which he had more enjoyment than uneasiness, were numbered, they would be found very few; and at least that they would be twenty of sorrow for every one of pleasure."

§ 18. Charles VIII. was about thirteen years old when he succeeded his father Louis (A.D. 1483). Though the law of France fixed the majority of her kings at that age, yet it seems not to

[9] See a remarkable chapter in Philip de Comines, l. iv. c. 19, wherein he tells us that Charles VII. had never raised more than 1,800,000 francs a year in taxes; but Louis XI., at the time of his death, raised 4,700,000, exclusive of some military impositions; et surement c'estoit compassion de voir et scavoir la pauvreté du peuple.

have been strictly regarded on this occasion, and at least Charles was a minor by nature, if not by law. A contest arose, therefore, for the regency, which Louis had intrusted to his daughter Anne, wife of the lord de Beaujeu, one of the Bourbon family. The duke of Orleans, afterwards Louis XII., claimed it as presumptive heir of the crown, and was seconded by most of the princes. Anne, however, maintained her ground, and ruled France for several years in her brother's name with singular spirit and address, in spite of the rebellions which the Orleans party raised up against her. These were supported by the duke of Britany, the last of the great vassals of the crown, whose daughter, as he had no male issue, was the object of as many suitors as Mary of Burgundy.

The duchy of Britany was peculiarly circumstanced. The inhabitants, whether sprung from the ancient republicans of Armorica, or, as some have thought, from an emigration of Britons during the Saxon invasion, had not originally belonged to the body of the French monarchy. They were governed by their own princes and laws, though tributary, perhaps, as the weaker to the stronger, to the Merovingian kings. In the ninth century the dukes of Britany did homage to Charles the Bold, the right of which was transferred afterwards to the dukes of Normandy. This formality, at that time no token of real subjection, led to consequences beyond the views of either party. For when the feudal chains that had hung so loosely upon the shoulders of the great vassals began to be straitened by the dexterity of the court, Britany found itself drawn among the rest to the same centre. The old privileges of independence were treated as usurpation; the dukes were menaced with confiscation of their fief, their right of coining money disputed, their jurisdiction impaired by appeals to the parliament of Paris. However, they stood boldly upon their right, and always refused to pay *liege-homage*, which implied an obligation of service to the lord, in contradistinction to *simple homage*, which was a mere symbol of feudal dependence. In Francis II., the then duke, the male line of that family was about to be extinguished. His daughter Anne was naturally the object of many suitors, and was at length married by proxy to Maximilian, king of the Romans (A.D. 1489). But France was resolved at all events to break off so dangerous a connexion. And as Maximilian himself was unable, or took not sufficient pains, to relieve his betrothed wife from her embarrassments, she was ultimately compelled to accept the hand of Charles VIII. He had long been engaged by the treaty of Arras to marry the daughter of Maximilian, and that princess was educated at the French court. But this engagement had not prevented several years of hostilities, and continual intrigues with the towns of Flanders against Maximilian. The double injury which the latter sustained in the marriage of

Charles with the heiress of Britany seemed likely to excite a protracted contest; but the king of France, who had other objects in view, and perhaps was conscious that he had not acted a fair part, soon came to an accommodation, by which he restored Artois and Franche-comté. Both these provinces had revolted to Maximilian; so that Charles must have continued the war at some disadvantage (A.D. 1492).

France was now consolidated into a great kingdom: the feudal system was at an end. The vigour of Philip Augustus, the paternal wisdom of St. Louis, the policy of Philip the Fair, had laid the foundations of a powerful monarchy, which neither the arms of England, nor seditions of Paris, nor rebellions of the princes, were able to shake. Besides the original fiefs of the French crown, it had acquired two countries beyond the Rhone, which properly depended only upon the empire,—Dauphiné, under Philip of Valois, by the bequest of Humbert, the last of its princes; and Provence, under Louis XI., by that of Charles of Anjou.[10] Thus having conquered herself, if I may use the phrase, and no longer apprehensive of any foreign enemy, France was prepared, under a monarch flushed with sanguine ambition, to carry her arms into other countries, and to contest the prize of glory and power upon the ample theatre of Europe.[11]

[10] The country now called Dauphiné formed part of the kingdom of Arles or Provence, bequeathed by Rodolph III. to the Emperor Conrad I. But the dominion of the empire over these new acquisitions being little more than nominal, a few of the chief nobility converted their respective fiefs into independent principalities. One of these was the lord or dauphin of Vienne, whose family became ultimately masters of the whole province. Provence, like Dauphiné, was changed from a feudal dependency to a sovereignty, in the weakness and dissolution of the kingdom of Arles, about the early part of the eleventh century.

[11] See NOTE IX. 'Authorities for French History.'

NOTES TO CHAPTER I.

I. THE ARMORICAN REPUBLIC.

The existence of an Armorican Republic is now admitted by most French historians. Early in the fifth century, according to Zosimus (vi. 5), about the time when Constantine usurped the throne of Britain and Gaul, or, as the sense shows, a little later, in consequence of the incursions of the barbarians from beyond the Rhine, the natives of Britain, taking up arms for themselves, rescued their cities from these barbarians; and the whole Armorican territory, and other provinces of Gaul, in imitation of the Britons, liberated themselves in the same manner, expelling the Roman rulers, and establishing an internal government. Martin considers that this confederation extended as far as Aquitaine, and embraced some cities of the central provinces, as well as Armorica proper. ('Histoire de France,' vol. i. p. 339.)

II. THE FRANKS.

The Franks are not among the German tribes mentioned by Tacitus, nor do they appear in history before the year 240. They were probably a confederation of the tribes situated between the Rhine, the Weser, and the Main; as the Alemanni were a similar league to the south of the last river. Their origin may be derived from the necessity of defending their independence against Rome; but they had become the aggressors in the period when we read of them in Roman history; and, like other barbarians in that age, were often the purchased allies of the declining empire. M. Lehuërou conceives them to have been a race of exiles or outlaws from other German tribes, taking the name Franc from *frech*, fierce or bold, and settling at first, by necessity, near the mouth of the Elbe, whence they moved onwards to seek better habitations at the expense of less intrepid, though more civilized, nations.—('Institutions Mérovingiennes,' vol. i. p. 91.)

Although the Frankish tribes were nominally independent of each other, each possessing its own chieftain, yet in process of time a certain predominance was acquired by one or two over the rest. The warlike Salians, who towards the close of the third century obtained a fixed settlement in the north of Gaul, became, in consequence of this success and other advantages, the dominant tribe; and it was from one of their families, that of the *Merowings* or children of Merowig, that the confederation chose its military leaders, as occasion arose. Such is the origin of what is commonly called the Merovingian line of kings.

III. THE CONSULSHIP OF CLOVIS.

The theory of Dubos, who considers Clovis as a sort of lieutenant of the emperor's, and as governing the Roman part of his subjects by no other title, is partly countenanced by Gibbon, and has been revived, in almost its fullest extent, by a learned and spirited investigator of early history, Sir Francis Palgrave, in his 'Rise and Progress of the English Commonwealth,' i. 360. The truth seems to be that the investiture of Clovis with the consular dignity by the Eastern Emperor, although it added nothing to his real power, was a fortunate circumstance of which the conqueror gladly took advantage to ratify and consolidate his already acquired sovereignty. It is plain, from the account given by Gregory of Tours, that both Clovis himself and his subjects, barbarian and Roman, attached considerable importance to the fact. M. Lehuërou, in his 'Institutions Mérovingiennes,' arrives at the following conclusions:—That the definitive establishment of the Franks in Roman Gaul resulted at the same time from the voluntary concessions of the emperors and from their violent aggressions. That the Merovingians reigned partly by legitimate succession and partly by right of conquest. That Clovis, whose reign did not commence till after the fall of the Western Empire, nevertheless recognized, like the Visigoths of Spain, the Ostrogoths of Italy, and the Burgundians of Gaul, the superiority, and up to a certain point the *suzerainship*, of the Emperors of the East. That the Gallo-Roman provincials coincided in this view, and that consequently their acquiescence in the government of Clovis became more

willing and more complete from the moment of his nomination as Consul and Patrician, acknowledged dignities of the ancient empire. Lastly, that, long after Clovis and his posterity had become independent masters of Gaul, the Merovingian princes looked upon the Eastern Emperors as their *superiors*, and addressed them, when occasion arose, in terms expressive of this relationship.

IV. THE MAYOR OF THE PALACE.

The Mayor of the Palace appears as the first officer of the crown in the three Frank kingdoms during the latter half of the sixth century. He had the command, as Guizot supposes, of the Antrustions, or vassals of the king. Even afterwards the office was not, as this writer believes, properly elective, though in the case of a minority of the king, or upon other special occasions, the *leudes*, or nobles, chose a mayor. The first instance we find of such an election was in 575, when, after the murder of Sigebert by Fredegonde, his son Childebert being an infant, the Austrasian *leudes* chose Gogon for their mayor. There seem, however, so many instances of elective mayors in the seventh century, that, although the royal consent may probably have been legally requisite, it is hard to doubt that the office had fallen into the hands of the nobles.

V. AQUITAINE.

Aribert, or rather Caribert, brother of Dagobert I., was declared king of Aquitaine in 628; but on his death, in 631, it became a duchy dependent on the monarchy under his two sons, with its capital at Toulouse. This dependence, however, appears to have soon ceased, in the decay of the Merovingian line; and for a century afterwards Aquitaine can hardly be considered as part of either the Neustrian or Austrasian kingdom. Aquitaine, in its fullest extent, extended from the Loire beyond the Garonne, with the exception of Touraine and the Orléannois. The people of Aquitaine, in this large sense of the word, were chiefly Romans, with a few Goths. The Franks, as a conquering nation, had scarcely taken up their abode in those provinces. After the battle of Testry, which subverted the Neustrian monarchy, Aquitaine, and even Burgundy, ceased for a time to be French; under Charles Martel they were styled the Roman countries. (Michelet, ii. 9.) Eudon, by some called Eudes, grandson of Caribert, a prince of conspicuous qualities, gained ground upon the Franks during the whole period of Pepin Heristal's power, and united to Aquitaine, not only Provence, but a new conquest from the independent natives, Gascony. Eudon obtained in 721 a far greater victory over the Saracens than that of Charles Martel at Poitiers. The slaughter was immense, and confessed by the Arabian writers; it even appears that a funeral solemnity, in commemoration of so great a calamity, was observed in Spain for four or five centuries afterwards. (Fauriel, iii. 79.) But in its consequences it was far less important; for the Saracens, some years afterwards, returned to avenge their countrymen, and Eudon had no resource but in the aid of Charles Martel. After the retreat of the enemy it became the necessary price of the service rendered by the Frank chieftain that Aquitaine acknowledged his sovereignty. This, however, was still but nominal, till Pepin determined to assert it more seriously, and after a long war overcame the last of the ducal line sprung from Clotaire II., which had displayed, for almost a century and a half, an energy in contrast with the imbecility of the elder branch. Even this, as M. Fauriel observes, was little more than a change in the reigning family; the men of Aquitaine never lost their peculiar nationality; they remained a separate people in Gaul, a people distinguished by their character, and by the part which they were called to play in the political revolutions of the age.

VI. THE SUBJECTION OF THE SAXONS.

The true cause, M. Michelet observes ('Hist. de France,' ii. 39), of the Saxon wars, which had begun under Charles Martel, and were in some degree defensive on the part of the Franks, was the ancient antipathy of race, enhanced by the growing tendency to civilized habits among the latter. This, indeed, seems sufficient to account for the conflict, without any national antipathy. It was that which makes the Red Indian perceive an enemy in the Anglo-American, and the Australian savage in the Englishman. The Saxons, in their deep forests and scantily cultivated plains, could not bear fixed boundaries of land. Their *gau* was indefinite; the *mansus* was certain; it annihilated the barbarian's only method of combining liberty with possession of land,—the right of shifting his occupancy. It is not probable, from sub-

sequent events, that the Saxons held very tenaciously by their religion; but when Christianity first offered itself, it came in the train of a conqueror. Nor could Christianity, according at least to the ecclesiastical system, be made compatible with such a state of society as the German in that age. Hence the Saxons endeavoured to burn the first churches, thus drawing retaliation on their own idols.

The first apostles of Germany were English; and of these the most remarkable was St. Boniface. But this had been in the time of Charles Martel and Pepin. The labours of these missionaries were chiefly in Thuringia, Franconia, and Bavaria, and were rewarded with great success. But we may here consider them only in their results on the Frank monarchy. Those parts of Germany had long been subject to Austrasia, but, except so far as they furnished troops, scarcely formed an integrant portion of that kingdom. The subjection of a heathen tribe is totally different from that of a Christian province. With the Church came churches, and for churches there must be towns, and for towns a magistracy, and for magistracy law and the means of enforcing it. How different was the condition of Bavaria or Hesse in the ninth century from that of the same countries in the seventh! Not outlying appendages to the Austrasian monarchy, hardly counted among its subjects, but capable of standing by themselves, as co-ordinate members of the empire, an equipoise to France herself, full of populous towns, wealthy nobles and prelates, better organized and more flourishing states than their neighbours on the left side of the Rhine. Charlemagne founded eight bishoprics in Saxony, and distributed the country into dioceses.

VII. CHARLEMAGNE, EMPEROR.

The motive of Charlemagne in accepting the title of emperor has been much discussed. It is contended by Sir F. Palgrave that Charlemagne was chosen by the Romans as lawful successor of Constantine V., whom his mother Irene had dethroned in 795, the usage of the empire having never admitted a female sovereign. But it remains to be shown by what right Leo III., *cum omni Christiano populo*, that is, the priests and populace of degenerate Rome, could dispose of the entire empire, or affect to place a stranger on the throne of Constantinople; for if Charles were the successor of Constantine V., we must draw this conclusion. Rome, we should keep in mind, was not a jot more invested with authority than any other city; the Greek capital had long taken her place; and in every revolution of new Rome, the decrepit mother had without hesitation obeyed. Nor does it seem to me exceedingly material, if the case be such, that Charlemagne was not styled emperor of the West, or successor of Augustulus. It is evident that his empire, relatively to that of the Greeks, was western; and we do not find that either he or his family ever claimed an exclusive right to the imperial title. The pretension would have been diametrically opposed both to prescriptive right and actual possession. He wrote to the emperor Nicephorus, successor of Irene, as *fraternitas vestra;* but it is believed that the Greeks never recognized the title of a western barbarian. Mr. Hallam thinks that the probable design of Charlemagne, in accepting the title of emperor, was not only to extend his power as far as possible in Italy, but to invest it with a sort of sacredness and prescriptive dignity in the eyes of his barbarian subjects. These had been accustomed to hear of emperors as something superior to kings; they were themselves fond of pompous titles, and the chancery of the new Augustus soon borrowed the splendid ceremonial of the Byzantine court. But the real motive of Charlemagne in accepting the title of emperor has been more correctly appreciated by Mr. Maine in his work on 'Ancient Law' (pp. 103-107). The conception of "territorial sovereignty" was at that time unknown, and, when the descendants of Clovis aspired to be something more than kings of the Franks, the only precedent which suggested itself was the title of Emperors of Rome. "The world had lain for so many centuries under the shadow of Imperial Rome as to have forgotten that distribution of the vast spaces comprised in the empire which had once parcelled them out into a number of independent commonwealths, claiming immunity from extrinsic interference, and pretending to equality of national rights. After the subsidence of the barbarian irruptions, the notion of sovereignty that prevailed seems to have been twofold. On the one hand it assumed the form of what may be called '*tribe* sovereignty.' Part of Transalpine Gaul, with part of Germany, had now become the country *de facto* occupied by the Franks—it was France; but the Mero-

vingian line of chieftains, the descendants of Clovis, were not kings of France—they were kings of the Franks. The alternative to this peculiar notion of sovereignty appears to have been—and this is the important point—the idea of universal dominion. The moment a monarch departed from the special relation of chief to clansmen, and became solicitous, for purposes of his own, to invest himself with a novel form of sovereignty, the only precedent which suggested itself for his adoption was the domination of the emperors of Rome. To parody a common quotation, he became '*aut Cæsar aut nullus*.' The chieftain who would no longer call himself king of the tribe must claim to be emperor of the world. Thus, when the hereditary Mayors of the Palace had ceased to compromise with the monarchs they had long since virtually dethroned, they soon became unwilling to call themselves kings of the Franks—a title which belonged to the displaced Merovings; but they could not style themselves kings of France, for such a designation, though apparently not unknown, was not a title of dignity. Accordingly they came forward as aspirants to universal empire. Territorial sovereignty—the view which connects sovereignty with the possession of a limited portion of the earth's surface—was distinctly an offshoot, though a tardy one, of *feudalism*."

VIII. THE KINGDOM OF BURGUNDY.

It is important for the student to bear in mind the different uses of the name Burgundy in different ages. Mr. Bryce has pointed out the ten senses in which the name generally occurs:—

"I. The kingdom of the Burgundians (*regnum Burgundionum*), founded A.D. 406, occupying the whole valley of the Saône and lower Rhone, from Dijon to the Mediterranean, and including also the Western half of Switzerland. It was destroyed by the sons of Clovis in A.D. 534.

"II. The kingdom of Burgundy (*regnum Burgundiæ*), mentioned occasionally under the Merovingian kings as a separate principality, confined within boundaries apparently somewhat narrower than those of the older kingdom last named.

"III. The kingdom of Provence or Burgundy (*regnum Provinciæ seu Burgundiæ*)—also, though less accurately, called the kingdom of Cis-Jurane Burgundy—was founded by Boso in A.D. 877, and included Provence, Dauphiné, the Southern part of Savoy, and the country between the Saône and the Jura.

"IV. The kingdom of Trans-Jurane Burgundy (*regnum Iurensæ, Burgundiæ Transiurensis*), founded by Rudolf in A.D. 888, recognized in the same year by the Emperor Arnulf, included the Northern part of Savoy, and all Switzerland between the Reuss and the Jura.

"V. The kingdom of Burgundy or Arles (*regnum Burgundiæ, regnum Arelatense*), formed by the union, under Conrad the Pacific, in A.D. 937, of the kingdoms described above as III. and IV. On the death, in 1032, of the last independent king, Rudolf III., it came partly by bequest, partly by conquest, into the hands of the Emperor Conrad II. (the Salic), and thenceforward formed a part of the Empire. In the thirteenth century, France began to absorb it, bit by bit, and has now (since the annexation of Savoy in 1861) acquired all except the Swiss portion of it.

"VI. The Lesser Duchy (*Burgundia Minor*), (Klein Burgund), corresponded very nearly with what is now Switzerland west of the Reuss, including the Valais. It was Trans-Jurane Burgundy (IV.) *minus* the parts of Savoy which had belonged to that kingdom. It disappears from history after the extinction of the house of Zahringen in the thirteenth century. Legally it was part of the Empire till A.D. 1648, though practically independent long before that date.

"VII. The Free County or Palatinate of Burgundy (Franche Comté), (Freigrafschaft), (called also Upper Burgundy), to which the name of Cis-Jurane Burgundy originally and properly belonged, lay between the Saône and the Jura. It formed a part of III. and V., and was therefore a fief of the Empire. The French dukes of Burgundy were invested with it in A.D. 1384, and in 1678 it was annexed to the crown of France.

"VIII. The Landgraviate of Burgundy (Landgrafschaft) was in Western Switzerland, on both sides of the Aar, between Thun and Solothurn. It was a part of the Lesser Duchy (VI.), and, like it, is hardly mentioned after the thirteenth century.

"IX. The Circle of Burgundy (Kreis Burgund), an administrative division of the Empire, was established by Charles V. in 1548; and included the Free County of Burgundy (VII.) and the seventeen provinces of the Netherlands, which Charles inherited from his grandmother Mary, daughter of Charles the Bold.

"X. The Duchy of Burgundy (Lower Burgundy), (Bourgogne), the most northerly part of the old kingdom of the Burgundians, was always a fief of the crown of France, and a province of France till the Revolution. It was of this Burgundy that Philip the Good and Charles the Bold were Dukes. They were also Counts of the Free County (VII.)."—'The Holy Roman Empire,' pp. 437-439.

IX. AUTHORITIES FOR FRENCH HISTORY.

The history of France by Velly, Villaret, and Garnier, was the principal authority originally used by Mr. Hallam for this chapter, exclusive of original writers. The part of the Abbé Velly comes down to the middle of the eighth volume (12mo. edition), and of the reign of Philip de Valois. His continuator Villaret was interrupted by death in the seventeenth volume, and in the reign of Louis XI. Subsequently Mr. Hallam observed that "this history is but slightly esteemed in France, especially the volumes written by the Abbé Velly. The writers were too much imbued with the spirit of the old monarchy (though no adulators of kings, and rather liberal according to the standard of their own age) for those who have taken the sovereignty of the people for their creed. Nor are they critical and exact enough for the present state of historical knowledge. Sismondi and Michelet, especially the former, are doubtless superior; but the reader will not find in the latter as regular a narration of facts as in Velly and Villaret. Sismondi has as many prejudices on one side as they have on the opposite." But the histories of Sismondi and Michelet are in their turn now superseded to a great extent by that of H. Martin.

CHAPTER II.

ON THE FEUDAL SYSTEM, ESPECIALLY IN FRANCE.

PART I.

§ 1. State of Ancient Germany. § 2. Effects of the Conquest of Gaul by the Franks. § 3. Tenures of Land. § 4. Roman Natives of Gaul. § 5. Proportion of Franks and Romans. § 6. Distinction of Laws. § 7. Constitution of the ancient Frank Monarchy. § 8. Origin of Nobility. § 9. Gradual Establishment of Feudal Tenures. § 10. Principles of a Feudal Relation. § 11. Ceremonies of Homage, Fealty, and Investiture. § 12. Obligations of a Vassal. Military Service. § 13. Feudal Incidents of Relief, Fines, Escheats, Aids, Wardship, Marriage. § 14. Different Species of Fiefs. § 15. Feudal Law-books.

§ 1. GERMANY, in the age of Tacitus, was divided among a number of independent tribes, differing greatly in population and importance. Their country, overspread with forests and morasses, afforded no large proportion of arable land. Nor did they ever occupy the same land two years in succession, if what Cæsar tells us may be believed, that fresh allotments were annually made by the magistrates. But this could not have been an absolute abandonment of land once cultivated, which Horace ascribes to the migratory Scythians. The Germans had fixed though not contiguous dwellings, and the inhabitants of the *gau* or township must have continued to till the same fields, though it might be with varying rights of separate property. They had kings elected out of particular families; and other chiefs, both for war and administration of justice, whom merit alone recommended to the public choice. But the power of each was greatly limited; and the decision of all leading questions, though subject to the previous deliberation of the chieftains, sprung from the free voice of a popular assembly. The principal men, however, of a German tribe fully partook of that estimation which is always the reward of valour, and commonly of birth. They were surrounded by a cluster of youths, the most gallant and ambitious of the nation, their pride at home, their protection in the field; whose ambition was flattered, or gratitude conciliated, by such presents as a leader of barbarians could confer. These were the institutions of the people who overthrew the empire of Rome, congenial to the spirit of infant societies, and such as travellers have found among nations in the same stage of manners throughout the world. And although, in

the lapse of four centuries between the ages of Tacitus and Clovis, some change was wrought by long intercourse with the Romans, yet the foundations of their political system were unshaken. If the Salic laws were in the main drawn up before the occupation of Gaul by the Franks, as seems the better opinion, it is manifest that lands were held by them in determinate several possession; and in other respects it is impossible that the manners described by Tacitus should not have undergone some alteration.

§ 2. When these tribes from Germany and the neighbouring countries poured down upon the empire, and began to form permanent settlements, they made a partition of the lands in the conquered provinces between themselves and the original possessors. The Burgundians and Visigoths took two-thirds of their respective conquests, leaving the remainder to the Roman proprietor. Each Burgundian was quartered, under the gentle name of guest (*hospes*), upon one of the former tenants, whose reluctant hospitality confined him to the smaller portion of his estate. The Vandals in Africa, a more furious race of plunderers, seized all the best lands. The Lombards of Italy took a third part of the produce. We cannot discover any mention of a similar arrangement in the laws or history of the Franks. It is, however, clear that they occupied, by public allotment or individual pillage, a great portion of the lands of France.

§ 3. The estates possessed by the Franks as their property were termed *alodial;* a word which is sometimes restricted to such as had descended by inheritance.[1] These were subject to no burden except that of public defence. They passed to all the children equally, or, in their failure, to the nearest kindred. But of these alodial possessions there was a particular species, denominated Salic, from which females were expressly excluded. What these lands were, and what was the cause of the exclusion, has been much disputed. No solution seems more probable than that the ancient lawgivers of the Salian Franks prohibited females from inheriting the lands assigned to the

[1] Alodial lands are commonly opposed to beneficiary or feudal; the former being strictly proprietary, while the latter depended upon a superior. In this sense the word is of continual recurrence in ancient histories, laws, and instruments. It sometimes, however, bears the sense of *inheritance*. Hence, in the charters of the eleventh century, hereditary fiefs are frequently termed alodia. The word *allod* or *alod*, in Latin *alodis*, in French *alleu*, is of uncertain etymology. It has usually been thought to be compounded of *all* and *odh*, and would thus signify full or entire property; but MM. Guizot, Lehuërou, and other writers derive it from the Teutonic *loos*, *sors*. The word *sors*, when applied to land means only an integral patrimony, as it means capital opposed to interest when applied to money. It is common in the civil law, and is no more than the Greek κλῆρος; but it had been peculiarly applied to the lands assigned by the Romans to the soldiery after a conquest, which some suppose to have been by lot. And hence this term was most probably adopted by the barbarians, or rather those who rendered their laws into Latin.

nation upon the conquest of Gaul, both in compliance with their ancient usages, and in order to secure the military service of every proprietor. But lands subsequently acquired by purchase or other means, though equally bound to the public defence, were relieved from the severity of this rule, and presumed not to belong to the class of Salic.[2]

§ 4. A controversy has been maintained in France as to the condition of the Romans, or rather the provincial inhabitants of Gaul,[3] after the invasion of Clovis. While some bring the two nations, conquerors and conquered, almost to an equality, as the common subjects of a sovereign who had assumed the prerogatives of a Roman emperor; others find no closer analogy for their relative conditions than that of the Greeks and Turks in the days that have lately gone by. But it seems impossible to maintain either of these two theories. On the one hand, we find the Romans not only possessed of property, and governed by their own laws, but admitted to the royal favour and the highest offices; while the bishops and clergy, who were generally of that nation, grew up continually in popular estimation, in riches, and in temporal sway. Yet a marked line was drawn at the outset between the conquerors and the conquered. Though one class of Romans retained estates of their own, yet there was another, called tributary, who seem to have cultivated those of the Franks, and were scarcely raised above the condition of predial servitude. But no distinction can be more unequivocal than that which was established between the two nations, in the *weregild*, or composition for homicide. Capital punishment for murder was contrary to the spirit of the Franks, who, like most barbarous nations, would have thought the loss of one citizen ill repaired by that of another. The weregild was paid to the relations of the slain, according to a legal rate. This was fixed by the Salic law at 600 solidi for an Antrustion of the king; at 300 for a Roman *conviva regis* (a man who had been admitted to the royal table); at 200 for a common Frank; at 100 for a Roman possessor of lands; and at 45 for a tributary, or cultivator of another's property. One essential difference separated the Frank from the Roman. The latter was subject to personal and territorial taxation.

§ 5. It cannot be too frequently inculcated on the reader who desires to form a general but tolerably exact notion of the state of France under the first line of kings, that he is not hastily to draw inferences from one of the three divisions, Austrasia, Neustria, and Aquitaine, to which, for a part of the period, we must add Burgundy, to the rest. The difference of language, though not always

[2] See NOTE I. 'On the Salic and other Laws of the Barbarians.'

[3] It must be recollected that in the barbarian laws the word Roman is uniformly applied to the provincial inhabitants of Gaul,

decisive, furnishes a presumption of different origin. We may therefore estimate, with some probability, the proportion of Franks settled in the monarchy on the left bank of the Rhine, by the extent of country wherein the Teutonic language is spoken. The French or Walloon followed in that early age the irregular line which, running from Calais and St. Omer to Lisle and Tournay, stretches north of the Meuse as far as Liege, and, bending thence to the south-westward, passes through Longwy to Metz. These towns speak French, and spoke it under Charlemagne, if we can say that under Charlemagne French was spoken anywhere; at least they spoke a dialect of Latin origin. The exceptions are few; but where they exist, it is from the progress of French rather than the contrary.

The most remarkable evidence for the duration of the limit is the act of partition between Lothaire of Lorrain and Charles the Bald, in 870, whence it appears that the names of places where French is now spoken were then French. Nothing, says M. Michelet, can be more French than the Walloon country.[4] He expatiates almost with enthusiasm on the praise of this people, who seem to have retained a large share of his favourite Celtic element. It appears that the result of an investigation into the languages on the Alsatian frontier would be much the same. Here, therefore, we have a very reasonable presumption that the forefathers of the Flemish Belgians, as well as of the people of Alsace, were barbarians: some of the former may be sprung from Saxon colonies planted in Brabant by Charlemagne; but we may derive the majority from Salian and Ripuarian Franks. These were the strength of Austrasia, and among these the great restorer, or rather founder, of the empire fixed his capital at Aix-la-Chapelle.

In Aquitaine, on the other hand, everything appears Roman, in contradistinction to Frank, except the reigning family. The chief difficulty, therefore, concerns Neustria; that is, from the Scheldt, or, perhaps, the Somme, to the Loire; and to this important kingdom the advocates of the two nations, Roman and Frank, lay claim. M. Thierry has paid much attention to the subject, and come to the conclusion that, in the seventh century, the number of Frank landholders, from the Rhine to the Loire, much exceeded that of the Roman. And this excess he takes to have been increased through the seizure of church lands in the next age by Charles Martel, who bestowed them on his German troops enlisted beyond the Rhine.[5]

[4] 'Hist. de France,' viii. 287.

[5] The method which Thierry has pursued, in order to ascertain this, is ingenious u. presumptively right. He remarked thou. names of the places will often and would ... the inhabitants, or more often the chief proprietor, were of Roman or Teutonic origin. Thus Franconville and Romainville, near Paris, are distinguished, in charters of the ninth century, as *Francorum villa* and *Romanorum villa*. This is an instance where the population

We may, therefore, conclude that the Franks, even in the reign of Clovis, were rather a numerous people—including, of course, the Ripuarian as well as the Salian tribe. They certainly appear in great strength soon afterwards.

§ 6. The barbarous conquerors of Gaul and Italy were guided by notions very different from those of Rome, who had imposed her own laws upon all the subjects of her empire. Adhering in general to their ancient customs, without desire of improvement, they left the former habitations in unmolested enjoyment of their civil institutions. The Frank was judged by the Salic or the Ripuary code; the Gaul followed that of Theodosius. This grand distinction of Roman and barbarian, according to the law which each followed, was common to the Frank, Burgundian, and Lombard kingdoms. The name of Gaul or Roman was not entirely lost in that of Frenchman, nor had the separation of their laws ceased, even in the provinces north of the Loire, till after the time of Charlemagne. Ultimately, however, the feudal customs of succession, which depended upon principles quite remote from those of the civil law, and the rights of territorial justice which the barons came to possess, contributed to extirpate the Roman jurisprudence in that part of France. But in the south, from whatever cause, it survived the revolutions of the middle ages; and thus arose a leading division of that kingdom into *pays coutumiers* and *pays du droit écrit;* the former regulated by a vast variety of ancient usages, the latter by the Roman law down to the French revolution; the laws of Justinian, in the progress of learning, having naturally taken the place of the Theodosian.[6]

§ 7. The kingdom of Clovis was divided into a number of districts, each under the government of a count, a name familiar to Roman subjects, by which they rendered the *graf* of the Germans.[7] The authority of this officer extended over all the inhabitants, as well Franks as natives. It was his duty to administer justice, to preserve tranquillity, to collect the royal revenues, and to lead, when required, the free proprietors into the field. The title of a duke implied a

seems to have been of different race. But commonly the owner's Christian name is followed by a familiar termination. In that same neighbourhood proper names of German origin, with the terminations *ville, court, mont, val,* and the like, are very frequent. And this he finds to be generally the case north of the Loire, compared with the left bank of that river. It is, of course, to be understood that this proportion of superior landholders did not extend to the general population; for that, in all Neustrian France, was evidently composed of those who spoke the rustic Roman tongue—the corrupt language which, in the tenth or eleventh century, became worthy of the name of French; and this was the case, as we have just seen, in part of Austrasia, as Champagne and Lorrain.

[6] This subject is fully treated in Savigny's work, 'History of the Roman Law in the Middle Ages.'

[7] The word *graf* was not always equivalent to *comes;* it took in some countries, as in England, the form *gerefa,* and stood for the *vicecomes* or sheriff, the count or alderman's deputy.

higher dignity, and commonly gave authority over several counties.[8] These offices were originally conferred during pleasure; but the claim of a son to succeed his father would often be found too plausible or too formidable to be rejected, and it is highly probable that, even under the Merovingian kings, these provincial governors had laid the foundations of that independence which was destined to change the countenance of Europe. The Lombard dukes, those especially of Spoleto and Benevento, acquired very early an hereditary right of governing their provinces, and that kingdom became a sort of federal aristocracy.

The throne of France was always filled by the royal house of Meroveus. However complete we may imagine the elective rights of the Franks, it is clear that a fundamental law restrained them to this family. Such, indeed, had been the monarchy of their ancestors the Germans; such long continued to be those of Spain, of England, and perhaps of all European nations. The reigning family was immutable; but at every vacancy the heir awaited the confirmation of a popular election, whether that were a substantial privilege or a mere ceremony. Exceptions, however, to the lineal succession are rare in the history of any country, unless where an infant heir was thought unfit to rule a nation of freemen. But, in fact, it is vain to expect a system of constitutional laws rigidly observed in ages of anarchy and ignorance. Those antiquaries who have maintained the most opposite theories upon such points are seldom in want of particular instances to support their respective conclusions.

Clovis was a leader of barbarians, who respected his valour and the rank which they had given him, but were incapable of servile feelings, and jealous of their common as well as individual rights. In order to appreciate the power which he possessed, it has been customary with French writers to bring forward the well-known story of the vase of Soissons. When the plunder taken in Clovis's invasion of Gaul was set out in this place for distribution, he begged for himself a precious vessel belonging to the church of Rheims. The army having expressed their willingness to consent, "You shall have nothing here," exclaimed a soldier, striking it with his battle-axe, "but what falls to your share by lot." Clovis took the vessel without marking any resentment, but found an opportunity, next year, of revenging himself by the death of the soldier. The whole behaviour of Clovis appears to be that of a barbarian chief, not daring to withdraw anything from the rapacity, or to chastise the rudeness, of his followers.

But if such was the liberty of the Franks when they first became

[8] Some have supposed these titles to have been applied indifferently. But the contrary is easily proved, and especially by a line of Fortunatus.

Qui modo dat Comitis, det tibi jura Ducis.

conquerors of Gaul, we have good reason to believe that they did not long preserve it. A people not very numerous spread over the spacious provinces of Gaul, wherever lands were assigned to or seized by them. It became a burden to attend those general assemblies of the nation which were annually convened in the month of March, to deliberate upon public business, as well as to exhibit a muster of military strength. After some time it appears that these meetings drew together only the bishops, and those invested with civil offices. The ancient inhabitants of Gaul, having little notion of political liberty, were unlikely to resist the most tyrannical conduct. Many of them became officers of state, and advisers of the sovereign, whose ingenuity might teach maxims of despotism unknown in the forests of Germany. We shall scarcely wrong the bishops by suspecting them of more pliable courtliness than was natural to the long-haired warriors of Clovis. Yet it is probable that some of the Franks were themselves instrumental in this change of their government. The court of the Merovingian kings was crowded with followers, who have been plausibly derived from those of the German chiefs described by Tacitus; men forming a distinct and elevated class in the state, and known by the titles of Fideles, Leudes, and Antrustiones. They took an oath of fidelity to the king, upon their admission into that rank, and were commonly remunerated with gifts of land. Under different appellations we find, as some antiquaries think, this class of courtiers in the early records of Lombardy and England. The general name of Vassals (from *Gwas*, a Celtic word for a servant) is applied to them in every country. By the assistance of these faithful supporters it has been thought that the regal authority of Clovis's successors was insured. However this may be, the annals of his more immediate descendants exhibit a course of oppression, not merely displayed, as will often happen among uncivilized people, though free, in acts of private injustice, but in such general tyranny as is incompatible with the existence of any real checks upon the sovereign.

But before the middle of the seventh century the kings of this line had fallen into that contemptible state which has been described in the last chapter. The mayors of the palace, who from mere officers of the court had now became masters of the kingdom, were elected by the Franks, not indeed the whole body of that nation, but the provincial governors and considerable proprietors of land. Some inequality there probably existed from the beginning in the partition of estates, and this had been greatly increased by the common changes of property, by the rapine of those savage times, and by royal munificence. Thus arose that landed aristocracy which became the most striking feature in the political system of

Europe during many centuries, and is, in fact, its great distinction both from the despotism of Asia and the equality of republican governments.

§ 8. There has been some dispute about the origin of nobility in France, which might perhaps be settled, or at least better understood, by fixing our conception of the term. In our modern acceptation it is usually taken to imply certain distinctive privileges in the political order, inherent in the blood of the possessor, and consequently not transferable like those which property confers. Limited to this sense, nobility, I conceive, was unknown to the conquerors of Gaul till long after the downfall of the Roman empire. They felt, no doubt, the common prejudice of mankind in favour of those whose ancestry is conspicuous, when compared with persons of obscure birth. This is the primary meaning of nobility, and perfectly distinguishable from the possession of exclusive civil rights. Those who are acquainted with the constitution of the Roman republic will recollect an instance of the difference between these two species of hereditary distinction, in the *patricii* and the *nobiles*. Though I do not think that the tribes of German origin paid so much regard to genealogy as some Scandinavian and Celtic nations (else the beginnings of the greatest houses would not have been so enveloped in doubt as we find them), there are abundant traces of the respect in which families of known antiquity were held among them.

But the essential distinction of ranks in France, perhaps also in Spain and Lombardy, was founded upon the possession of land, or upon civil employment. The aristocracy of wealth preceded that of birth, which indeed is still chiefly dependent upon the other for its importance. A Frank of large estate was styled a noble; if he wasted or was despoiled of his wealth, his descendants fell into the mass of the people, and the new possessor became noble in his stead. Families were noble by descent, because they were rich by the same means. Wealth gave them power, and power gave them pre-eminence. But no distinction was made by the Salic or Lombard codes in the composition for homicide, the great test of political station, except in favour of the king's vassals. It seems, however, by some of the barbaric codes, those namely of the Burgundians, Visigoths, Saxons, and the English colony of the latter nation, that the free men were ranged by them into two or three classes, and a difference made in the price at which their lives were valued: so that there certainly existed the elements of aristocratic privileges, if we cannot in strictness admit their completion at so early a period. The Antrustiones of the kings of the Franks were also noble, and a composition was paid for their murder, treble of that for an ordinary citizen; but this was a personal, not an hereditary,

distinction. A link was wanting to connect their eminent privileges with their posterity; and this link was to be supplied by hereditary benefices.

§ 9. Besides the lands distributed among the nation, others were reserved to the crown, partly for the support of its dignity, and partly for the exercise of its munificence. These are called *Fiscal Lands*; they were dispersed over different parts of the kingdom, and formed the most regular source of revenue. But the greater portion of them were granted out to favoured subjects, under the name of BENEFICES, subsequently called FIEFS,[9] the nature of which is one of the most important points in the policy of these ages. Benefices were, it is probable, most frequently bestowed upon the professed courtiers, the Antrustiones or Leudes, and upon the provincial governors. It by no means appears that any conditions of military service were expressly annexed to these grants: but it may justly be presumed that such favours were not conferred without an expectation of some return; and we read both in law and history that beneficiary tenants were more closely connected with the crown than mere alodial proprietors. Whoever possessed a benefice was expected to serve his sovereign in the field. But of alodial proprietors only the owner of three mansi[10] was called upon for personal service. Where there were three possessors of single mansi, one went to the army, and the others contributed to his equipment.

Most of those who have written upon the feudal system lay it down that benefices were originally precarious, and revoked at pleasure by the sovereign; that they were afterwards granted for life; and at a subsequent period became hereditary. No satisfactory proof, however, appears to have been brought of the first stage in this progress. The ordinary duration of benefices was at least the life of the possessor, after which they reverted to the fisc; but they soon became hereditary. Children would naturally put in a very strong claim to what their father had enjoyed; and the weakness of the crown in the seventh century must have rendered it difficult to reclaim its property. A natural consequence of hereditary benefices was that those who possessed them carved out portions to be

[9] The term *fief* (*feodum*, *feudum*) began to be applied to benefices when they became hereditary, and first occurs in a capitulary of the reign of the Emperor Charles the Fat, A.D. 884. Different etymologies are given of this word; that which seems most probable derives it from *feh*, salary or pay, and *odh*, property—implying that it was land conferred as a reward or recompense of services. Others refer it to the Latin *fides*; others again, among whom is Lehuëron, prefer the Teutonic root *föden*, *nutrire*. Sir F. Palgrave deduces it, ingeniously, but with slight probability, from the Roman law-term *emphyteusis*.

[10] The precise area of a mansus is uncertain. It consisted, according to Du Cange, of twelve jugera; but what he meant by a juger is not stated. The ancient Roman juger was about five-eighths of an acre; the Parisian arpent was a fourth more than one. This would make a difference as two to one.

held of themselves by a similar tenure. Abundant proofs of this custom, best known by the name of *Sub-Infeudation*, occur even in the capitularies of Pepin and Charlemagne. At a later period it became universal; and what had begun perhaps through ambition or pride was at last dictated by necessity. In that dissolution of all law which ensued after the death of Charlemagne, the powerful leaders, constantly engaged in domestic warfare, placed their chief dependency upon men whom they attached by gratitude, and bound by strong conditions. The oath of fidelity which they had taken, the homage which they had paid to the sovereign, they exacted from their own vassals. To render military service became the essential obligation which the tenant of a benefice undertook; and out of those ancient grants, now become for the most part hereditary, there grew up in the tenth century, both in name and reality, the system of feudal tenures.

This revolution was accompanied by another still more important. The provincial governors, the dukes and counts, to whom we may add the marquises or margraves intrusted with the custody of the frontiers, had taken the lead in all public measures after the decline of the Merovingian kings. Charlemagne, duly jealous of their ascendancy, checked it by suffering the duchies to expire without renewal, by granting very few counties hereditarily, by removing the administration of justice from the hands of the counts into those of his own itinerant judges, and, if we are not deceived in his policy, by elevating the ecclesiastical order as a counterpoise to that of the nobility. But in the tenth century there followed an entire prostration of the royal authority, and the counts usurped their governments as little sovereignties, with the domains and all regalian rights, subject only to the feudal superiority of the king. They now added the name of the county to their own, and their wives took the appellation of countess. In Italy the independence of the dukes was still more complete; and although Otho the Great and his descendants kept a stricter rein over those of Germany, yet we find the great fiefs of their empire, throughout the tenth century, granted almost invariably to the male and even female heirs of the last possessor.

Meanwhile, the alodial proprietors were exposed to the rapacity of the counts, who, whether as magistrates and governors, or as overbearing lords, had it always in their power to harass them. Every district was exposed to continual hostilities; sometimes from a foreign enemy, more often from the owners of castles and fastnesses, which, in the tenth century, under pretence of resisting the Normans and Hungarians, served the purposes of private war. Against such a system of rapine the military compact of lord and vassal was the only effectual shield; its essence was the reciprocity of service and

protection. But an insulated alodialist had no support. Without law to redress his injuries, without the royal power to support his right, he had no course left but to compromise with oppression, and subject himself, in return for protection, to a feudal lord. This was usually called *commendation*, which created a personal relation between lord and vassal, closely resembling that of patron and client in the Roman republic. Though originally this *commendation* had no relation to land, but created a merely personal tie—fidelity in return for protection—it is easy to conceive that the alodialist who obtained this privilege, as it might justly appear in an age of rapine, must often do so by subjecting himself to the law of tenure. In this way, during the tenth and eleventh centuries, alodial lands in France had chiefly become feudal.

There is a famous edict of the emperor Conrad II., surnamed the Salic, at Milan, in the year 1037, which, though immediately relating only to Lombardy, marks the full maturity of the feudal system, and the last stage of its progress. Four regulations of great importance are established therein: that no man should be deprived of his fief, whether held of the emperor or a mesne lord, but by the laws of the empire and the judgment of his peers; and that from such judgment an immediate vassal might appeal to his sovereign; that fiefs should be inherited by sons and their children, or, in their failure, by brothers, provided they were *feuda paterna*, such as had descended from the father; and that the lord should not alienate the fief of his vassal without his consent.

Such was the progress of these feudal tenures, which determined the political character of every European monarchy where they prevailed, as well as formed the foundations of its jurisprudence. It is important to keep in mind that the feudal system was the general establishment of a peculiar relation between the sovereign (not as king, but as lord) and his immediate vassals; between these again and others standing to them in the same relation of vassalage, and thus frequently through several links in the chain of tenancy. If this relation, and especially if the latter and essential element, sub-infeudation, is not to be found, there is no feudal system, though there are many analogies to it, more or less remarkable or strict. If the reader asks what were the immediate causes of establishing this polity we must refer him to three alone—to the grants of beneficiary lands to the vassal and his heirs, without which there could hardly be sub-infeudation; to the analogous grants of official honours, particularly that of count or governor of a district; and, lastly, to the voluntary conversion of alodial into feudal tenure, through free landholders submitting their persons and estates, by way of commendation, to a neighbouring lord or to the count of a district. All these—though several instances, especially of the first, occurred

much earlier—belong generally to the ninth century, and may be supposed to have been fully accomplished about the beginning of the tenth; to which period, therefore, and not to an earlier one, we refer the feudal system in France. It is now time to describe the legal qualities and effects of this relation, so far only as may be requisite to understand its influence upon the political system.

§ 10. The essential principle of a fief was a mutual contract of support and fidelity. Whatever obligations it laid upon the vassal of service to his lord, corresponding duties of protection were imposed by it on the lord towards his vassal. If these were transgressed on either side, the one forfeited his land, the other his seigniory or rights over it. Nor were motives of interest left alone to operate in securing the feudal connexion. The associations founded upon ancient custom and friendly attachment, the impulses of gratitude and honour, the dread of infamy, the sanctions of religion, were all employed to strengthen these ties, and to render them equally powerful with the relations of nature, and far more so than those of political society. It was a question agitated among the feudal lawyers, whether a vassal was bound to follow the standard of his lord against the king. In the works of those who wrote when the feudal system was declining, or who were anxious to maintain the royal authority, this is commonly decided in the negative. But it was not so during the height of the feudal system in France. The vassals of Henry II. and Richard I. never hesitated to adhere to them against the sovereign, nor do they appear to have incurred any blame on that account.

§ 11. The ceremonies used in conferring a fief were principally three—Homage, Fealty, and Investiture. 1. The first was designed as a significant expression of the submission and devotedness of the vassal towards his lord. In performing *Homage*,[11] his head was uncovered, his belt ungirt, his sword and spurs removed; he placed his hands, kneeling, between those of the lord, and promised to become his man from thenceforward; to serve him with life and limb and worldly honour, faithfully and loyally, in consideration of the lands which he held under him. None but the lord in person could accept homage, which was commonly concluded by a kiss. 2. An oath of *Fealty*[12] was indispensable in every fief; but the ceremony was less peculiar than that of homage, and it might be received by proxy. It was taken by ecclesiastics, but not by minors; and in language differed little from the form of homage. 3. *Investiture*,[13] or the actual conveyance of feudal lands, was of two kinds; proper and improper. The first was an actual putting in possession upon the ground, either by the lord or his deputy;

[11] *Homagium, hominium.* [12] *Fidelitas.* [13] *Investitura.*

which is called, in our law, livery of seisin. The second was symbolical, and consisted in the delivery of a turf, a stone, a wand, a branch, or whatever else might have been made usual by the caprice of local custom.

§ 12. Upon investiture, the duties of the vassal commenced. These it is impossible to define or enumerate; because the services of military tenure, which is chiefly to be considered, were in their nature uncertain, and distinguished as such from those incident to feuds of an inferior description. It was a breach of faith to divulge the lord's counsel, to conceal from him the machinations of others, to injure his person or fortune, or to violate the sanctity of his roof and the honour of his family. In battle he was bound to lend his horse to his lord when dismounted; to adhere to his side, while fighting; and to go into captivity as a hostage for him, when taken. His attendance was due to the lord's courts, sometimes to witness, and sometimes to bear a part in, the administration of justice.

The measure, however, of military service was generally settled by some usage. Forty days was the usual term during which the tenant of a knight's fee was bound to be in the field at his own expense. This was extended by St. Louis to sixty days, except when the charter of infeudation expressed a shorter period. But the length of service diminished with the quantity of land. For half a knight's fee but twenty days were due; for an eighth part but five; and when this was commuted for an escuage, or pecuniary assessment, the same proportion was observed.[14] Men turned of sixty, public magistrates, and, of course, women, were free from personal service, but obliged to send their substitutes. A failure in this primary duty incurred perhaps strictly a forfeiture of the fief. But it was usual for the lord to inflict an amercement, known in England by the name of *escuage*. The regulations as to the place of service were less uniform than those which regarded time. In some places the vassal was not bound to go beyond the lord's territory, or only so far as that he might return the same day. Other customs compelled him to follow his chief upon all his expeditions. These inconvenient and varying usages betrayed the origin of the feudal obligations, not founded upon any national policy, but springing from the chaos of anarchy and intestine war, which they were well calculated to perpetuate. For the public defence their machinery was totally unserviceable, until such changes were wrought as destroyed the character of the fabric.

[14] The knight's fee was fixed in England at the annual value of 20*l*. Every estate supposed to be of this value, and entered as such in the rolls of the exchequer, was bound to contribute the service of a soldier, or to pay an escuage to the amount assessed upon knights' fee.

§ 13. Independently of the obligations of fealty and service, which the nature of the contract created, other advantages were derived from it by the lord, which have been called feudal incidents: these were, 1. Reliefs. 2. Fines upon alienation. 3. Escheats. 4. Aids; to which may be added, though not generally established, 5. Wardship, and 6. Marriage.

(1.) A *Relief* was a sum of money (unless where charter or custom introduced a different tribute) due from every one of full age, taking a fief by descent. This was in some countries arbitrary, and the exactions practised under this pretence both upon superior and inferior vassals, ranked amongst the greatest abuses of the feudal policy. Henry I. of England promises in his charter that they shall in future be just and reasonable; but the rate does not appear to have been finally settled till it was laid down in Magna Charta at about a fourth of the annual value of the fief. By a law of St. Louis, in 1245, the lord was entitled to enter upon the lands, if the heir could not pay the relief, and possess them for a year. This right existed unconditionally in England under the name of primer seisin, but was confined to the king.

(2.) Closely connected with reliefs were the *Fines upon alienation*, that is, the fines paid to the lord upon the alienation of his vassal's feud; and indeed we frequently find them called by the same name. The spirit of feudal tenure established so intimate a connexion between the two parties that it could be dissolved by neither without requiring the other's consent. If the lord transferred his seigniory, the tenant was to testify his concurrence; and this ceremony was long kept up in England under the name of attornment. The assent of the lord to his vassal's alienation was still more essential, and more difficult to be attained. He had received his fief, it was supposed, for reasons peculiar to himself or to his family; at least his heart and arm were bound to his superior; and his service was not to be exchanged for that of a stranger, who might be unable or unwilling to render it. By the law of France the lord was entitled, upon every alienation made by his tenant, either to redeem the fief by paying the purchase-money, or to claim a certain part of the value, by way of fine, upon the change of tenancy.[15]

(3.) *Escheats.*—As fiefs descended but to the posterity of the first taker, or at the utmost to his kindred, they necessarily became some-

[15] In England even the practice of sub-infeudation, which was more conformable to the law of fiefs and the military genius of the system, but injurious to the suzerains, who lost thereby their escheats and other advantages of seigniory, was checked by Magna Charta, and forbidden by the statute 18 Edward I., called Quia Emptores, which at the same time gave the liberty of alienating lands to be holden of the grantor's immediate lord. The tenants of the crown were not included in this act; but that of 1 Edward III. c. 12, enabled them to alienate, upon the payment of a composition into chancery, which was fixed at one-third of the annual value of the lands.

times vacant for want of heirs; especially where, as in England, there was no power of devising them by will. In this case it was obvious that they ought to revert to the lord, from whose property they had been derived. These reversions became more frequent through the forfeitures occasioned by the vassal's delinquency, either towards his superior lord or the estate. Various cases are laid down in the 'Assises de Jérusalem,' where the vassal forfeits his land for a year, for his life, or for ever. But under rapacious kings, such as the Norman line in England, absolute forfeitures came to prevail, and a new doctrine was introduced, the corruption of blood, by which the heir was effectually excluded from deducing his title at any distant time though an attainted ancestor.

(4.) Reliefs, fines upon alienation, and escheats, seem to be natural reservations in the lord's bounty to his vassal. He had rights of another class which principally arose out of fealty and intimate attachment. Such were the *Aids* which he was entitled to call for in certain prescribed circumstances. These depended a great deal upon local custom, and were often extorted unreasonably. Hence by Magna Charta three only were retained in England; to make the lord's eldest son a knight, to marry his eldest daughter, and to redeem his person from prison. They were restricted to nearly the same description by a law of William I. of Sicily, and by the customs of France. These feudal aids are deserving of our attention, as the beginnings of taxation, of which for a long time they in a great measure answered the purpose, till the craving necessities and covetous policy of kings substituted for them more durable and onerous burthens.

I might here, perhaps, close the enumeration of feudal incidents, but that the two remaining, wardship and marriage, though only partial customs, were those of our own country, and tend to illustrate the rapacious character of a feudal aristocracy.

(5.) In England, and in Normandy, which either led the way to, or adopted, all these English institutions, the lord had the *Wardship* of his tenant during minority. By virtue of this right he had both the care of his person and received to his own use the profits of the estate. There is something in this custom very conformable to the feudal spirit, since none was so fit as the lord to train up his vassal to arms, and none could put in so good a claim to enjoy the fief, while the military service for which it had been granted was suspended. This privilege of guardianship seems to have been enjoyed by the lord in some parts of Germany; but in the law of France the custody of the land was intrusted to the next heir, and that of the person, as in socage tenures among us, to the nearest kindred of that blood which could not inherit. By a gross abuse of this custom in England, the right of guardianship in chivalry,

or temporary possession of the lands, was assigned over to strangers. This was one of the most vexatious parts of our feudal tenures, and was never, perhaps, more sorely felt than in their last stage under the Tudor and Stuart families.

(6.) Another right given to the lord by the Norman and English laws was that of *Marriage*, or of tendering a husband to his female wards while under age, whom they could not reject without forfeiting the value of the marriage; that is, as much as any one would give to the guardian for such an alliance. This was afterwards extended to male wards, and became a very lucrative source of extortion to the crown, as well as to mesne lords. This custom seems to have had the same extent as that of wardships. It is found in the ancient books of Germany, but not of France. The kings, however, and even inferior lords, of that country, required their consent to be solicited for the marriage of their vassals' daughters. Several proofs of this occur in the history as well as in the laws of France; and the same prerogative existed in Germany, Sicily, and England.

These feudal servitudes distinguish the maturity of the system. No trace of them appears in the capitularies of Charlemagne and his family, nor in the instruments by which benefices were granted. I believe that they did not make part of the regular feudal law before the eleventh, or, perhaps, the twelfth century, though doubtless partial usages of this kind had grown up antecedently to either of those periods. Indeed, that very general commutation of alodial property into tenure which took place between the middle of the ninth and eleventh centuries would hardly have been effected if fiefs had then been liable to such burthens and so much extortion. In half-barbarous ages the strong are constantly encroaching upon the weak; a truth which, if it needed illustration, might find it in the progress of the feudal system.

§ 14. We have thus far confined our inquiry to fiefs holden on terms of military service; since those are the most ancient and regular, as well as the most consonant to the spirit of the system. They alone were called *proper feuds*, and all were presumed to be of this description until the contrary was proved by the charter of investiture. A proper feud was bestowed without price, without fixed stipulation, upon a vassal capable of serving personally in the field. But gradually, with the help of a little legal ingenuity, *improper fiefs* of the most various kinds were introduced, retaining little of the characteristics, and less of the spirit, which distinguished the original tenures. Women, if indeed that were an innovation, were admitted to inherit them; they were granted for a price, and without reference to military service. The language of the feudal law was applied by a kind of metaphor to almost every transfer of

property. Hence pensions of money and allowances of provisions, however remote from right notions of a fief, were sometimes granted under that name; and even where land was the subject of the donation, its conditions were often lucrative, often honorary, and sometimes ludicrous.

There is one extensive species of feudal tenure which may be distinctly noticed. The pride of wealth in the middle ages was principally exhibited in a multitude of dependants. The court of Charlemagne was crowded with officers of every rank, some of the most eminent of whom exercised functions about the royal person which would have been thought fit only for slaves in the palace of Angustus or Antonine. The freeborn Franks saw nothing menial in the titles of cup-bearer, steward, marshal, and master of the horse, which are still borne by the noblest families in many parts of Europe, and, till lately, by sovereign princes in the empire. From the court of the king this favourite piece of magnificence descended to those of the prelates and barons, who surrounded themselves with household officers called ministerials; a name equally applied to those of a servile and of a liberal description. The latter of these were rewarded with grants of lands, which they held under a feudal tenure by the condition of performing some domestic service to the lord. What was called in our law grand serjeanty affords an instance of this species of fief.[16]

These imperfect feuds, however, belong more properly to the history of law, and are chiefly noticed in the present sketch because they attest the partiality manifested during the middle ages to the name and form of a feudal tenure. In the regular military fief we see the real principle of the system, which might originally have been defined an alliance of free landholders arranged in degrees of subordination, according to their respective capacities of affording mutual support.

§ 15. The peculiar and varied attributes of feudal tenures naturally gave rise to a new jurisprudence, regulating territorial rights in those parts of Europe which had adopted the system. For a length of time this rested in traditionary customs observed in the domains of each prince or lord, without much regard to those of his neighbours. Laws were made occasionally by the emperor in Germany and Italy, which tended to fix the usages of those countries. About the year 1170, Girard and Obertus, two Milanese

[16] "This tenure," says Littleton, "is where a man holds his lands or tenements of our sovereign lord the king by such services as he ought to do in his proper person to the king, as to carry the banner of the king, or his lance, or to lead his array, or to be his marshal, or to carry his sword before him at his coronation, or to be his sewer at his coronation, or his carver, or his butler, or to be one of his chamberlains at the receipt of his exchequer, or to do other like services." Sect. 153.

lawyers, published two books of the law of fiefs, which obtained a great authority, and have been regarded as the groundwork of that jurisprudence. A number of subsequent commentators swelled this code with their glosses and opinions, to enlighten or obscure the judgment of the imperial tribunals. These were chiefly civilians or canonists, who brought to the interpretation of old barbaric customs the principles of a very different school. Hence a manifest change was wrought in the law of feudal tenure, which they assimilated to the usufruct or the emphyteusis of the Roman code; modes of property somewhat analogous in appearance, but totally distinct in principle, from the legitimate fief. These Lombard lawyers propagated a doctrine which has been too readily received, that the feudal system originated in their country. But whatever weight it may have possessed within the limits of the empire, a different guide must be followed in the ancient customs of France and England. These were fresh from the fountain of that curious polity with which the stream of Roman law had never mingled its waters. In England we know that the Norman system established between the Conquest and the reign of Henry II. was restrained by regular legislation, by paramount courts of justice, and by learned writings, from breaking into discordant local usages, except in a comparatively small number of places, and has become the principal source of our common law. But the independence of the French nobles produced a much greater variety of customs. The whole number collected and reduced to certainty in the sixteenth century amounted to two hundred and eighty-five, or, omitting those inconsiderable for extent or peculiarity, to sixty. The earliest written customary in France is that of Bearn, which is said to have been confirmed by Viscount Gaston IV. in 1088. Many others were written in the two subsequent ages, of which the customs of Beauvoisis, compiled by Beaumanoir under Philip III., are the most celebrated, and contain a mass of information on the feudal constitution and manners. Under Charles VII. an ordinance was made for the formation of a general code of customary law, by ascertaining for ever in a written collection those of each district; but the work was not completed till the reign of Charles IX. This was what may be called the common law of the *pays coutumiers*, or northern division of France, and the rule of all their tribunals, unless where controlled by royal edicts.

PART II.

§ 1. Analysis of the Feudal System. § 2. Its Local Extent. § 3. View of the different Orders of Society during the Feudal Ages. Nobility. Their Ranks and Privileges. § 4. Clergy. § 5. Freemen. § 6. Serfs or Villeins. § 7. Comparative State of France and Germany. § 8. Privileges enjoyed by the French Vassals. Right of coining Money. § 9. Right of Private War. § 10. Immunity from Taxation. Historical View of the Royal Revenue in France. Methods adopted to augment it by Depreciation of the Coin, &c. § 11. Legislative Power. Its State under the Merovingian Kings, and Charlemagne. His Councils. § 12. Suspension of any general legislative Authority during the Prevalence of Feudal Principles. The King's Council. § 13. Means adopted to supply the Want of a National Assembly. § 14. Gradual Progress of the King's Legislative Power. § 15. Philip IV. assembles the States-General. Their Powers limited to Taxation. § 16. States under the Sons of Philip IV. § 17. States of 1355 and 1356. They nearly effect an entire Revolution. § 18. The Crown recovers its Vigour. § 19. States of 1380, under Charles VI. Subsequent Assemblies under Charles VI. and Charles VII. § 20. The Crown becomes more and more absolute. Louis XI. § 21. States of Tours in 1484. § 22. Historical View of Jurisdiction in France. Its earliest Stage under the first Race of Kings, and Charlemagne. § 23. Territorial Jurisdiction. Feudal Courts of Justice. § 24. Trial by Combat. § 25. Code of St. Louis. § 26. The territorial Jurisdictions give way. Progress of the judicial Power of the Crown. § 27. Parliament of Paris. § 28. Peers of France. § 29. Increased Authority of the Parliament. Registration of Edicts. § 30. Causes of the Decline of the Feudal System. Acquisitions of Domain by the Crown. § 31. Charters of Incorporation granted to Towns. First Charters in the Twelfth Century. § 32. Privileges contained in them. § 33. Military Service of Feudal Tenants commuted for Money. Hired Troops. Change in the Military System of Europe. § 34. Decay of Feudal Principles. § 35. General View of the Advantages and Disadvantages attending the Feudal System.

§ 1. THE advocates of a Roman origin for most of the institutions which we find in the kingdoms erected on the ruins of the empire are naturally prone to magnify the analogies to feudal tenure which Rome presents to us, and even to deduce it either from the ancient relation of patron and client, and that of personal commendation, which was its representative in a later age, or from the frontier lands granted in the third century to the Læti, or barbarian soldiers, who held them, doubtless, subject to a condition of military service. The usage of *commendation* especially, so frequent in the fifth century, before the conquest of Gaul, as well as afterwards, does certainly bear a strong analogy to vassalage, and I have already pointed it out as one of its sources. It wanted, however, that definite relation to the tenure of land which distinguished the latter. The royal Antrustio (whether the word *commendatus* were applied to him or not) stood bound by gratitude and loyalty to his sove reign, and in a very different degree from a common subject; but he was not perhaps strictly a vassal till he had received a terri-

torial benefice.[1] The complexity of sub-infeudation could have no analogy in commendation. The grants to veterans and to the Læti are so far only analogous to fiefs, that they established the principle of holding lands on a condition of military service. But this service was no more than what, both under Charlemagne and in England, if not in other times and places, the alodial freeholder was bound to render for the defence of the realm; it was more commonly required, because the lands were on a barbarian frontier; but the duty was not even *very* analogous to that of a feudal tenant. The essence of a fief seems to be, that its tenant owed fealty to a lord, and not to the state or the sovereign; the lord might be the latter, but it was not, feudally speaking, as a sovereign that he was obeyed. This is, therefore, sufficient to warrant us in tracing the real theory of feuds no higher than the Merovingian history in France; their full establishment, as has been seen, is considerably later. But the preparatory steps in the constitutions of the declining empire are of considerable importance, not merely as analogies, but as predisposing circumstances, and even germs to be subsequently developed. The beneficiary tenure of lands could not well be brought by the conquerors from Germany; but the donatives of arms or precious metals bestowed by the chiefs on their followers were also analogous to fiefs; and, as the Roman institutions were one source of the law of tenure, so these were another.

It is of great importance to be on our guard against seeming analogies which vanish away when they are closely observed. We should speak inaccurately if we were to use the word *feudal* for the service of the Irish or Highland clans to their chieftain; their tie was that of imagined kindred and respect for birth, not the spontaneous compact of vassalage. Much less can we extend the name of feud, though it is sometimes strangely misapplied, to the polity of Poland and Russia. All the Polish nobles were equal in rights, and independent of each other; all who were less than noble were in servitude. No government can be more opposite to the long gradations and mutual duties of the feudal system.

§ 2. The regular machinery and systematic establishment of feuds, in fact, may be considered as almost confined to the dominions of Charlemagne, and to those countries which afterwards derived it from thence. In England it can hardly be thought to have existed in a complete state before the Conquest. Scotland, it is supposed, borrowed it soon after from her neighbour. The Lombards of Benevento had introduced feudal customs into the Neapo-

[1] This word "vassal" is used very indefinitely; it means, in its original sense, only a servant or dependant. But in the continental records of histories we commonly find it applied to feudal tenants.

litan provinces, which the Norman conquerors afterwards perfected. Feudal tenures were so general in the kingdom of Aragon, that I reckon it among the monarchies which were founded upon that basis. Charlemagne's empire, it must be remembered, extended as far as the Ebro. But in Castile and Portugal they were very rare, and certainly could produce no political effect. Benefices for life were sometimes granted in the kingdoms of Denmark and Bohemia. Neither of these, however, nor Sweden nor Hungary, come under the description of countries influenced by the feudal system. That system, however, after all these limitations, was so extensively diffused, that it might produce confusion as well as prolixity to pursue collateral branches of its history in all the countries where it prevailed. But this embarrassment may be avoided without any loss, I trust, of important information. The English constitution will find its place in another portion of this volume; and the political condition of Italy, after the eleventh century, was not much affected, except in the kingdom of Naples, by the laws of feudal tenure. I shall confine myself, therefore, chiefly to France and Germany; and far more to the former than the latter country. But it may be expedient first to contemplate the state of society in its various classes during the prevalence of feudal principles, before we trace their influence upon the national government.

§ 3. It has been laid down already as most probable that no proper aristocracy, except that of wealth, was known under the early kings of France; and it was hinted that hereditary benefices, or, in other words, fiefs might supply the link that was wanting between personal privileges and those of descent. The possessors of beneficiary estates were usually the richest and most conspicuous individuals in the estate. They were immediately connected with the crown, and partakers in the exercise of justice and royal counsels. Their sons now came to inherit this eminence; and, as fiefs were either inalienable, or at least not very frequently alienated, rich families were kept long in sight; and, whether engaged in public affairs, or living with magnificence and hospitality at home, naturally drew to themselves popular estimation. The dukes and counts, who had changed their quality of governors into that of lords over the provinces intrusted to them, were at the head of this noble class. And in imitation of them, their own vassals, as well as those of the crown, and even rich alodialists, assumed titles from their towns or castles, and thus arose a number of petty counts, barons, and viscounts. This distinct class of nobility became coextensive with the feudal tenures. For the military tenant, however poor, was subject to no tribute; no prestation, but service in the field; he was the companion of his lord in the sports and feasting of his castle, the peer of his court; he fought on horseback, he was clad in the coat of mail, while the com-

monalty, if summoned at all to war, came on foot, and with no armour of defence. As everything in the habits of society conspired with that prejudice which, in spite of moral philosophers, will constantly raise the profession of arms above all others, it was a natural consequence that a new species of aristocracy, founded upon the mixed considerations of birth, tenure, and occupation, sprung out of the feudal system. Every possessor of a fief was a gentleman, though he owned but a few acres of land, and furnished his slender contribution towards the equipment of a knight.

There still, however, wanted something to ascertain gentility of blood where it was not marked by the actual tenure of land. This was supplied by two innovations devised in the eleventh and twelfth centuries—the adoption of surnames and of armorial bearings. The first are commonly referred to the former age, when the nobility began to add the names of their estates to their own, or, having any way acquired a distinctive appellation, transmitted it to their posterity. As to armorial bearings, there is no doubt that emblems somewhat similar have been immemorially used both in war and peace. The shields of ancient warriors, and devices upon coins or seals, bear no distant resemblance to modern blazonry. But the general introduction of such bearings, as hereditary distinctions, has been sometimes attributed to tournaments, wherein the champions were distinguished by fanciful devices; sometimes to the crusades, where a multitude of all nations and languages stood in need of some visible token to denote the banners of their respective chiefs. In fact, the peculiar symbols of heraldry point to both these sources, and have been borrowed in part from each. Hereditary arms were perhaps scarcely used by private families before the beginning of the thirteenth century. From that time, however, they became very general, and have contributed to elucidate that branch of history which regards the descent of illustrious families.

When the privileges of birth had thus been rendered capable of legitimate proof, they were enhanced in a great degree, and a line drawn between the high-born and ignoble classes, almost as broad as that which separated liberty from servitude. All offices of trust and power were conferred on the former; those excepted which appertain to the legal profession. A plebeian could not possess a fief.[2] Such at least was the original strictness; but as the aristocratic principle grew weaker, an indulgence was extended to heirs, and afterwards to purchasers. They were even permitted to become noble by the acquisition, or at least by its possession for three gene-

[2] We have no English word that conveys the full sense of *roturier*. How glorious is this deficiency in our political language, and how different are the ideas suggested by *commoner*! Roturier, according to Du Cange, is derived from ruptuarius, a peasant, ab agrum rumpendo.

rations. But notwithstanding this ennobling quality of the land, which seems rather of an equivocal description, it became an established right of the crown to take, every twenty years, and on every change of the vassal, a fine, known by the name of franc-fief, from plebeians in possession of land held by a noble tenure.[3] A gentleman in France or Germany could not exercise any trade without derogating, that is, losing the advantages of his rank. A few exceptions were made, at least in the former country, in favour of some liberal arts and of foreign commerce. But in nothing does the feudal haughtiness of birth more show itself than in the disgrace which attended unequal marriages. No children could inherit a territory held immediately of the empire unless both their parents belonged to the higher class of nobility. In France the offspring of a gentleman by a plebeian mother were reputed noble for the purposes of inheritance, and of exemption from tribute.[4] But they could not be received into any order of chivalry, though capable of simple knighthood; nor were they considered as any better than a bastard class deeply tainted with the alloy of their maternal extraction. Many instances occur where letters of nobility have been granted to reinstate them in their rank. For several purposes it was necessary to prove four, eight, sixteen, or a greater number of quarters—that is, of coats borne by paternal and maternal ancestors; and the same practice still subsists in Germany.

It appears, therefore, that the original nobility of the Continent were what we may call self-created, and did not derive their rank from any such concessions of their respective sovereigns as have been necessary in subsequent ages. In England the baronies by tenure might belong to the same class, if the lands upon which they depended had not been granted by the crown. But the kings of France, before the end of the thirteenth century, began to assume a privilege of creating nobles by their own authority, and without regard to the tenure of land. Philip the Hardy, in 1271, was the first French king who granted letters of nobility; under the reigns of Philip the Fair and his children they gradually became frequent. This effected a change in the character of nobility, and had as obvious a moral, as other events of the same age had a political, influence in diminishing the power and independence of the territorial aristocracy. The privileges originally connected with ancient lineage and extensive domains became common to the low-born creatures of a court, and lost consequently part of their title to respect. The lawyers, as I have ob-

[3] The right, originally perhaps usurpation, called franc-fief, began under Philip the Fair. 'Ordonnances des Rois,' t. i. p. 324; Denisart, art. 'Franc-fief.'

[4] Nobility, to a certain degree, was communicated through the mother alone, not only by the custom of Champagne, but in all parts of France; that is, the issue were "gentilhommes du fait de leur corps," and could possess fiefs; but, says Beaumanoir, "la gentilesse par laquelle on devient chevalier doit venir de par le père," c. 45.

served above, pretended that nobility could not exist without a royal concession. They acquired themselves, in return for their exaltation of prerogative, an official nobility by the exercise of magistracy. The institutions of chivalry again gave rise to a vast increase of gentlemen, knighthood, on whomsoever conferred by the sovereign, being a sufficient passport to noble privileges. It was usual, perhaps, to grant previous letters of nobility to a plebeian for whom the honour of knighthood was designed.

In this noble or gentle class there were several gradations. All those in France who held lands immediately depending upon the crown, whatever titles they might bear, were comprised in the order of Barons. These were originally the peers of the king's court; they possessed the higher territorial jurisdiction, and had the right of carrying their own banner into the field. To these corresponded the Valvassores majores and Capitanei of the empire. In a subordinate class were the vassals of this high nobility, who, upon the Continent, were usually termed Vavassors—an appellation not unknown, though rare, in England.[5] The Châtelains (Castellani) belonged to the order of Vavassors, as they held only arriere fiefs; but, having fortified houses, from which they derived their name (a distinction very important in those times), and possessing ampler rights of territorial justice, they rose above the level of their fellows in the scale of tenure.[6] But after the personal nobility of chivalry became the object of pride, the Vavassors who obtained knighthood were commonly styled bachelors; those who had not received that honour fell into the class of squires,[7] or Damoiseaux.

§ 4. It will be needless to dwell upon the condition of the inferior

[5] Chaucer concludes his picturesque description of the Franklin, in the prologue to the 'Canterbury Tales,' thus:—

"Was never such a worthy vavassor."

This has perplexed some of our commentators, who, not knowing well what was meant by a franklin or by a vavassor, fancied the latter to be of much higher quality than the former. The poet, however, was strictly correct; his acquaintance with French manners showed him that the country squire, for his franklin is no other, precisely corresponded to the vavassor in France.

[6] Whoever had a right to a castle had la haute justice; this being so incident to the castle, that it was transferred along with it. There might, however, be a seigneur haut-justicier below the Châtelain; and a ridiculous distinction was made as to the number of posts by which their gallows might be supported. A baron's instrument of execution stood on four posts; a châtelain's on three; while the inferior lord who happened to possess la haute justice was forced to hang his subjects on a two-legged machine. 'Coûtumes de Poitou; Du Cange, v. Furca.'

Laurière quotes from an old manuscript the following short scale of ranks: Duc est la première dignité, puis comtes, puis viscomtes, et puis baron, et puis châtelain, et puis vavasseur, et puis citaen, et puis villain. 'Ordonnances des Rois,' t. i. p. 277.

[7] The sons of knights, and gentlemen not yet knighted, took the appellation of squires in the twelfth century. That of Damoiseau came into use in the thirteenth. The latter was more usual in France. Squire was not used as a title of distinction in England till the reign of Edward III., and then but sparingly. Though by Henry VI.'s time it was grown more common, yet none assumed it but the sons and heirs of knights and some military men; except officers in courts of justice, who, by patent or prescription, had obtained that addition.

clergy, whether secular or professed, as it bears little upon the general scheme of polity. The prelates and abbots, however, it must be understood, were completely feudal nobles. They swore fealty for their lands to the king or other superior, received the homage of their vassals, enjoyed the same immunities, exercised the same jurisdiction, maintained the same authority, as the lay lords among whom they dwelt. Military service does not appear to have been reserved in the beneficiary grants made to cathedrals and monasteries. But when other vassals of the crown were called upon to repay the bounty of their sovereign by personal attendance in war, the ecclesiastical tenants were supposed to fall within the scope of this feudal duty, which men little less uneducated and violent than their compatriots were not reluctant to fulfil. Charlemagne exempted or rather prohibited them from personal service by several capitularies. The practice, however, as every one who has some knowledge of history will be aware, prevailed in succeeding ages. Both in national and private warfare we find very frequent mention of martial prelates. But, contrary as this actual service might be to the civil as well as ecclesiastical laws, the clergy who held military fiefs were of course bound to fulfil the chief obligation of that tenure and send their vassals into the field. We have many instances of their accompanying the army, though not mixing in the conflict; and even the parish priests headed the militia of their villages. The prelates, however, sometimes contrived to avoid this military service, and the payments introduced in commutation for it, by holding lands in frank-almoigne, a tenure which exempted them from every species of obligation except that of saying masses for the benefit of the grantor's family. But, notwithstanding the warlike disposition of some ecclesiastics, their more usual inability to protect the estates of their churches against rapacious neighbours suggested a new species of feudal relation and tenure. The rich abbeys elected an advocate, whose business it was to defend their interests both in secular courts, and, if necessary, in the field. Pepin and Charlemagne are styled Advocates of the Roman Church. This, indeed, was on a magnificent scale; but in ordinary practice the advocate of a monastery was some neighbouring lord, who, in return for his protection, possessed many lucrative privileges, and very frequently considerable estates, by way of fief from his ecclesiastical clients. Some of those advocates are reproached with violating their obligation, and becoming the plunderers of those whom they had been retained to defend.

§ 5. The classes below the gentry may be divided into freemen and villeins. Of the first were the inhabitants of chartered towns, the citizens and burghers, of whom more will be said presently. As to those who dwelt in the country, we can have no difficulty in

recognizing, so far as England is concerned, the socagers, whose tenure was free, though not so noble as knight's service, and a numerous body of tenants for term of life, who formed that ancient basis of our strength the English yeomanry. But the mere freemen are not at first sight so distinguishable in other countries. In French records and law-books of feudal times, all besides the gentry are usually confounded under the names of villeins or hommes de pooste (gens potestatis).[8] This proves the slight estimation in which all persons of ignoble birth were considered. For undoubtedly there existed a great many proprietors of land and others, as free, though not as privileged, as the nobility. In the south of France, and especially Provence, the number of freemen is remarked to have been greater than in the parts on the right bank of the Loire, where the feudal tenures were almost universal. I shall quote part of a passage in Beaumanoir, which points out this distinction of ranks pretty fully. "It should be known," he says,[9] "that there are three conditions of men in this world; the first is that of gentlemen; and the second is that of such as are naturally free, being born of a free mother. All who have a right to be called gentlemen are free, but all who are free are not gentlemen. Gentility comes by the father, and not by the mother; but freedom is derived from the mother only; and whoever is born of a free mother is himself free, and has free power to do anything that is lawful."[10]

§ 6. In every age and country, until times comparatively recent, personal servitude appears to have been the lot of a large, perhaps the greater, portion of mankind. We lose a good deal of our sympathy with the spirit of freedom in Greece and Rome, when the importunate recollection occurs to us of the tasks which might be enjoined, and the punishments which might be inflicted, without control either of law or opinion, by the keenest patriot of the Comitia, or the Council of Five Thousand. A similar, though less powerful, feeling will often force itself on the mind when we read the history of the middle ages. The Germans, in their primitive settlements, were accustomed to the notion of slavery, incurred not only by captivity, but by crimes, by debt, and especially by loss in gaming. When they invaded the Roman empire they found the same condition established in all its provinces. Hence, from the beginning of the era now under review, servitude, under somewhat different modes, was extremely common. There is some difficulty in ascertaining its varieties and stages. In the Salic laws, and in the Capitularies, we read not only of Servi, but of Tributarii, Lidi,

[8] Homo potestatis, non nobilis—Ita nuncupantur, quod in potestate domini sunt—Opponuntur viris nobilibus.—'Du Cange, v. Potestas.'

[9] 'Coûtumes de Beauvoisis,' c. 45, p. 256.

[10] See NOTE II. 'The Tributarii, Lidi, and Coloni.'

and Coloni, who were cultivators of the earth, and subject to residence upon their lord's estate, though not destitute of property or civil rights. Those who appertained to the demesne lands of the crown were called Fiscalini. The composition for the murder of one of these was much less than that for a freeman. The number of these servile cultivators was undoubtedly great, yet in those early times, I should conceive, much less than it afterwards became. Property was for the most part in small divisions, and a Frank who could hardly support his family upon a petty alodial patrimony was not likely to encumber himself with many servants. But the accumulation of overgrown private wealth had a natural tendency to make slavery more frequent. Where the small proprietors lost their lands by mere rapine, we may believe that their liberty was hardly less endangered. Even where this was not the case, yet, as the labour either of artisans or of free husbandmen was but sparingly in demand, they were often compelled to exchange their liberty for bread. In seasons also of famine, and they were not infrequent, many freemen sold themselves to slavery.[11] A capitulary of Charles the Bald in 864 permits their redemption at an equitable price. Others became slaves, as more fortunate men became vassals, to a powerful lord, for the sake of his protection. Many were reduced into this state through inability to pay those pecuniary compositions for offences which were numerous and sometimes heavy in the barbarian codes of law; and many more by neglect of attendance on military expeditions of the king, the penalty of which was a fine called Heribann, with the alternative of perpetual servitude. A source of loss of liberty which may strike us as more extraordinary was superstition; men were infatuated enough to surrender themselves, as well as their properties, to churches and monasteries, in return for such benefits as they might reap by the prayers of their new masters.

[11] The poor early felt the necessity of selling themselves for subsistence in times of famine. "Subdiderunt se pauperes servitio," says Gregory of Tours, A.D. 585, "ut quantulumcunque de alimento porrigerent." (Lib. vii. c. 45.) This long continued to be the practice; and probably the remarkable number of famines which are recorded, especially in the ninth and eleventh centuries, swelled the sad list of those unhappy poor who were reduced to barter liberty for bread. Mr. Wright, in the 'Archæologia,' vol. xxx., p. 223, has extracted an entry from an Anglo-Saxon manuscript, where a lady, about the time of the Conquest, manumits some slaves, "whose heads," as it is simply and forcibly expressed, "she had taken for their meat in the evil days." Evil indeed were those days in France, when out of seventy-three years, the reigns of Hugh Capet and his two successors, forty-eight were years of famine. Evil were the days for five years from 1015, in the whole western world, when not a country could be named that was not destitute of bread. These were famines, as Radulfus Glaber and other contemporary writers tell us, in which mothers ate their children, and children their parents; and human flesh was sold, with some pretence of concealment, in the markets. It is probable that England suffered less than France; but so long and frequent a scarcity of necessary food must have affected, in the latter country, the whole organic frame of society.

The characteristic distinction of a villein was his obligation to remain upon his lord's estate. He was not only precluded from selling the lands upon which he dwelt, but his person was bound, and the lord might reclaim him at any time, by suit in a court of justice, if he ventured to stray. But, equally liable to this confinement, there were two classes of villeins, whose condition was exceedingly different. In England, at least from the reign of Henry II., one only, and that the inferior species, existed; incapable of property, and destitute of redress, except against the most outrageous injuries. The lord could seize whatever they acquired or inherited, or convey them, apart from the land, to a stranger. Their tenure bound them to what were called villein services, ignoble in their nature, and indeterminate in their degree; the felling of timber, the carrying of manure, the repairing of roads for their lord, who seems to have possessed an equally unbounded right over their labour and its fruits. But by the customs of France and Germany, persons in this abject state seem to have been called serfs, and distinguished from villeins, who were only bound to fixed payments and duties in respect of their lord, though, as it seems, without any legal redress if injured by him. "The third estate of men," says Beaumanoir, in the passage above quoted, "is that of such as are not free; and these are not all of one condition, for some are so subject to their lord that he may take all they have, alive or dead, and imprison them, whenever he pleases, being accountable to none but God; while others are treated more gently, from whom the lord can take nothing but customary payments, though at their death all they have escheats to him."

Under every denomination of servitude, the children followed their mother's condition; except in England, where the father's state determined that of the children; on which account bastards of female villeins were born free, the law presuming the liberty of their father. The proportion of freemen, therefore, would have been miserably diminished if there had been no reflux of the tide which ran so strongly towards slavery. But the usage of manumission made a sort of circulation between these two states of mankind. This, as is well known, was an exceedingly common practice with the Romans; and is mentioned, with certain ceremonies prescribed, in the Frankish and other early laws. The clergy, and especially several popes, enforced it as a duty upon laymen; and inveighed against the scandal of keeping Christians in bondage. As society advanced in Europe, the manumission of slaves grew more frequent. By the indulgence of custom in some places, or perhaps by original convention, villeins might possess property, and thus purchase their own redemption. Even where they had no legal title to property, it was accounted inhuman to divest them of their little possession

(the peculium of Roman law), nor was their poverty, perhaps, less tolerable, upon the whole, than that of the modern peasantry in most countries of Europe. It was only in respect of his lord, it must be remembered, that the villein, at least in England, was without rights; he might inherit, purchase, sue in the courts of law; though, as defendant in a real action or suit wherein land was claimed, he might shelter himself under the plea of villenage. The peasants of this condition were sometimes made use of in war, and rewarded with enfranchisement; especially in Italy, where the cities and petty states had often occasion to defend themselves with their own population; and in peace the industry of free labourers must have been found more productive and better directed. Hence the eleventh and twelfth centuries saw the number of slaves in Italy begin to decrease; early in the fifteenth a writer quoted by Muratori speaks of them as no longer existing. The greater part of the peasants in some countries of Germany had acquired their liberty before the end of the thirteenth century; in other parts, as well as in all the northern and eastern regions of Europe, they remained in a sort of villenage till the present age. Some very few instances of predial servitude have been discovered in England so late as the time of Elizabeth, and perhaps they might be traced still lower. Louis Hutin, in France, after innumerable particular instances of manumission had taken place, by a general edict in 1315, reciting that his kingdom is denominated the kingdom of the Franks, that he would have the fact to correspond with the name, emancipates all persons in the royal domains upon paying a just composition, as an example for other lords possessing villeins to follow. Philip the Long renewed the same edict three years afterwards; a proof that it had not been carried into execution.[12]

§ 7. At the final separation of the French from the German side of Charlemagne's empire by the treaty of Verdun in 843, there was perhaps hardly any difference in the constitution of the two kingdoms. If any might be conjectured to have existed, it would be a greater independence and fuller rights of election in the nobility and people of Germany. But in the lapse of another century France had lost all her political unity, and her kings all their authority; while the Germanic empire was entirely unbroken under an effectual, though not absolute, control of its sovereign.

[12] Predial servitude was not, however, abolished in all parts of France till the revolution. Throughout almost the whole jurisdiction of the parliament of Besançon the peasants were attached to the soil, not being capable of leaving it without the lord's consent; and that in some places he even inherited their goods in exclusion of the kindred. I recollect to have read in some part of Voltaire's correspondence an anecdote of his interference, with that zeal against oppression which is the shining side of his moral character, in behalf of some of these wretched slaves of Franche-comté.

No comparison can be made between the power of Charles the Simple and Conrad the First, though the former had the shadow of an hereditary right, and the latter was chosen from among his equals. A long succession of feeble princes or usurpers, and destructive incursions of the Normans, reduced France almost to a dissolution of society; while Germany, under Conrad, Henry, and the Othos, found their arms not less prompt and successful against revolted vassals than external enemies. The high dignitaries were less completely hereditary than they had become in France; they were granted, indeed, pretty regularly, but they were solicited as well as granted; while the chief vassals of the French crown assumed them as patrimonial sovereignties, to which a royal investiture gave more of ornament than sanction. In the eleventh century these imperial prerogatives began to lose part of their lustre. The long struggles of the princes and clergy against Henry IV. and his son, the revival of more effective rights of election on the extinction of the house of Franconia, the exhausting contests of the Swabian emperors in Italy, the intrinsic weakness produced by a law of the empire, according to which the reigning sovereign could not retain an imperial fief more than a year in his hands, gradually prepared that independence of the German aristocracy which reached its height about the middle of the thirteenth century. During this period the French crown had been insensibly gaining strength; and as one monarch degenerated into the mere head of a confederacy, the other acquired unlimited power over a solid kingdom.

It would be tedious, and not very instructive, to follow the details of German public law during the middle ages; nor are the more important parts of it easily separable from civil history. In this relation they will find a place in a subsequent chapter of the present work. France demands a more minute attention; and in tracing the character of the feudal system in that country, we shall find ourselves developing the progress of a very different polity.

§ 8. To understand in what degree the peers and barons of France, during the prevalence of feudal principles, were independent of the crown, we must look at their leading privileges. These may be reckoned: I. The right of coining money; II. That of waging private war; III. The exemption from all public tributes, except the feudal aids; IV. The freedom from legislative control; and V. The exclusive exercise of original judicature in their dominions. Privileges so enormous, and so contrary to all principles of sovereignty, might lead us, in strictness, to account France rather a collection of states, partially allied to each other, than a single monarchy.

I. Silver and gold were not very scarce in the first ages of the French monarchy; but they passed more by weight than by tale. A lax and ignorant government, which had not learned the lucrative

mysteries of a royal mint, was not particularly solicitous to give its subjects the security of a known stamp in their exchanges. In some cities of France money appears to have been coined by private authority before the time of Charlemagne; at least one of his capitularies forbids the circulation of any that had not been stamped in the royal mint. His successors indulged some of their vassals with the privilege of coining money for the use of their own territories, but not without the royal stamp. About the beginning of the tenth century, however, the lords, among their other assumptions of independence, issued money with no marks but their own. At the accession of Hugh Capet as many as a hundred and fifty are said to have exercised this power. Even under St. Louis it was possessed by about eighty, who, excluding as far as possible the royal coin from circulation, enriched themselves at their subjects' expense by high duties (seigniorages), which they imposed upon every new coinage, as well as by debasing its standard.

Philip the Fair established royal officers of inspection in every private mint. It was asserted in his reign, as a general truth, that no subject might coin silver money. In fact, the adulteration practised in those baronial mints had reduced their pretended silver to a sort of black metal, as it was called (moneta nigra), into which little entered but copper. Silver, however, and even gold, were coined by the dukes of Britany so long as that fief continued to exist. No subjects evei enjoyed the right of coining silver in England without the royal stamp and superintendence[13]—a remarkable proof of the restraint in which the feudal aristocracy was always held in this country.

§ 9.—II. The passion of revenge, always among the most ungovernable in human nature, acts with such violence upon barbarians, that it is utterly beyond the control of their imperfect arrangements of polity. It seems to them no part of the social compact to sacrifice the privilege which nature has placed in the arm of valour. Gradually, however, these fiercer feelings are blunted, and another passion, hardly less powerful than resentment, is brought to play in a contrary direction. The earlier object accordingly of jurisprudence is to establish a fixed atonement for injuries, as much for the preservation of tranquillity as the prevention of crime. Such were the weregilds of the barbaric codes, which, for a different purpose, I have already mentioned. But whether it were that the kindred did not always accept, or the criminal offer, the legal composition, or that other causes of quarrel occurred, private feuds (faida) were perpetually breaking out, and many of Charlemagne's capitularies are directed against them. After his time all hope of restraining so

[13] I do not extend this to the *fact*; for in the anarchy of Stephen's reign, both bishops and barons coined money for themselves.—Hoveden, p. 490.

inveterate a practice was at an end; and every man who owned a castle to shelter him in case of defeat, and a sufficient number of dependants to take the field, was at liberty to retaliate upon his neighbours whenever he thought himself injured. It must be kept in mind that there was, frequently, either no jurisdiction to which he could appeal, or no power to enforce its awards; so that we may consider the higher nobility of France as in a state of nature with respect to each other, and entitled to avail themselves of all legitimate grounds of hostility. The right of waging private war was moderated by Louis IX., checked by Philip IV., suppressed by Charles VI.; but a few vestiges of its practice may be found still later.

§ 10.—III. In the modern condition of governments taxation is a chief engine of the well-compacted machinery which regulates the system. But the early European kingdoms knew neither the necessities nor the ingenuity of modern finance. From their demesne lands the kings of France and Lombardy supplied the common expenses of a barbarous court. Even Charlemagne regulated the economy of his farms with the minuteness of a steward, and a large portion of his capitularies are directed to this object. Their actual revenue was chiefly derived from free gifts, made, according to an ancient German custom, at the annual assemblies of the nation, from amercements paid by alodial proprietors for default of military service, and from the freda, or fines, accruing to the judge out of compositions for murder. These amounted to one-third of the whole weregild; one-third of this was paid over by the count to the royal exchequer. After the feudal government prevailed in France, and neither the heribannum nor the weregild continued in use, there seems to have been hardly any source of regular revenue besides the domanial estates of the crown; unless we may reckon as such, that during a journey the king had a prescriptive right to be supplied with necessaries by the towns and abbeys through which he passed; commuted sometimes into petty regular payments, called droits de gist et de chevauché. Hugh Capet was nearly indigent as king of France, though, as count of Paris and Orleans, he might take the feudal aids and reliefs of his vassals. Several other small emoluments of himself and his successors, whatever they may since have been considered, were in that age rather seigniorial than royal. The rights of toll, of customs, of alienage (aubaine), generally even the regale or enjoyment of the temporalities of vacant episcopal sees and other ecclesiastical benefices, were possessed within their own domains by the great feudatories of the crown. They contributed nothing to their sovereign, not even those aids which the feudal customs enjoined.

The history of the royal revenue in France is, however, too important to be slightly passed over. As the necessities of govern-

ment increased, several devices were tried in order to replenish the exchequer. One of these was by extorting money from the Jews. It is almost incredible to what a length this was carried. Usury, forbidden by law and superstition to Christians, was confined to this industrious and covetous people. It is now no secret that all regulations interfering with the interest of money render its terms more rigorous and burthensome. The children of Israel grew rich in despite of insult and oppression, and retaliated upon their Christian debtors. If an historian of Philip Augustus may be believed, they possessed almost one-half of Paris. Unquestionably they must have had support both at the court and in the halls of justice. The policy of the kings of France was to employ them as a sponge to suck their subjects' money, which they might afterwards express with less odium than direct taxation would incur. Philip Augustus released all Christians in his dominions from their debts to the Jews, reserving a fifth part to himself. He afterwards expelled the whole nation from France. But they appear to have returned again—whether by stealth, or, as is more probable, by purchasing permission. St. Louis twice banished and twice recalled the Jews. A series of alternate persecution and tolerance was borne by this extraordinary people with an invincible perseverance, and a talent of accumulating riches which kept pace with their plunderers; till new schemes of finance supplying the turn, they were finally expelled under Charles VI., and never afterwards obtained any legal establishment in France.

A much more extensive plan of rapine was carried on by lowering the standard of coin. Originally the pound, a money of account, was equivalent to twelve ounces of silver; and divided into twenty pieces of coin (sous), each equal consequently to nearly three shillings and four pence of our new English money. At the revolution the money of France had been depreciated in the proportion of seventy-three to one, and the sol was about equal to an English halfpenny. This was the effect of a long continuance of fraudulent and arbitrary government. The abuse began under Philip I. in 1103, who alloyed his silver coin with a third of copper. So good an example was not lost upon subsequent princes; till, under St. Louis, the mark-weight of silver, or eight ounces, was equivalent to fifty sous of the debased coin. Nevertheless these changes seem hitherto to have produced no discontent; whether it were that a people neither commercial nor enlightened did not readily perceive their tendency; or, as has been ingeniously conjectured, that these successive diminutions of the standard were nearly counterbalanced by an augmentation in the value of silver, occasioned by the drain of money during the crusades, with which they were about contemporaneous. But the rapacity of Philip the Fair kept no measures

with the public; and the mark in his reign had become equal to eight livres, or a hundred and sixty sous of money. Dissatisfaction, and even tumults, arose in consequence, and he was compelled to restore the coin to its standard under St. Louis. His successors practised the same arts of enriching their treasury; under Philip of Valois the mark was again worth eight livres. But the film had now dropped from the eyes of the people; and these adulterations of money, rendered more vexatious by continued recoinages of the current pieces, upon which a fee was extorted by the moneyers, showed in their true light as mingled fraud and robbery.

These resources of government, however, by no means superseded the necessity of more direct taxation. The kings of France exacted money from the roturiers, and particularly the inhabitants of towns, within their domains. In this they only acted as proprietors, or suzerains; and the barons took the same course in their own lands. Philip Augustus first ventured upon a stretch of prerogative, which, in the words of his biographer, disturbed all France. He deprived by force both his own vassals, who had been accustomed to boast of their immunities, and their feudal tenants, of a third part of their goods. Such arbitrary taxation of the nobility, who deemed that their military service discharged them from all pecuniary burthens, France was far too aristocratical a country to bear. It seems not to have been repeated; and his successors generally pursued more legitimate courses. Upon obtaining any contribution, it was usual to grant letters patent, declaring that it had been freely given, and should not be turned into precedent in time to come. But in the reign of Philip the Fair a great innovation took place in the French constitution, which, though it principally affected the method of levying money, may seem to fall more naturally under the next head of consideration.

§ 11.—IV. There is no part of the French feudal policy so remarkable as the entire absence of all supreme legislation. We find it difficult to conceive the existence of a political society, nominally one kingdom and under one head, in which, for more than three hundred years, there was wanting the most essential attribute of government. It will be requisite, however, to take this up a little higher, and inquire what was the original legislature of the French monarchy.

Arbitrary rule, at least in theory, was uncongenial to the character of the northern nations. Neither the power of making laws, nor that of applying them to the circumstances of particular cases, was left at the discretion of the sovereign. The Lombard kings held assemblies every year at Pavia, where the chief officers of the crown and proprietors of lands deliberated upon all legislative measures, in the presence, and nominally at least with the consent, of the multi-

tude. Frequent mention is made of similar public meetings in France by the historians of the Merovingian kings, and still more unequivocally by their statutes. These assemblies have been called parliaments of the Champ de Mars, having originally been held in the month of March. But they are supposed by many to have gone much into disuse under the later Merovingian kings. That of 615, the most important of which any traces remain, was at the close of the great revolution which punished Brunehaut for aspiring to despotic power. Whether these assemblies were composed of any except prelates, great landholders, or what we may call nobles, and the Antrustions of the king, is still an unsettled point. It is probable, however, not only that the bishops took part in them, but also that the presence of the nation was traditionally required in conformity to the ancient German usage, which had not been formally abolished; while the difficulty of prevailing on a dispersed people to meet every year, as well as the enhanced influence of the king through his armed Antrustions, soon reduced the freemen to little more than spectators from the neighbouring districts.

Although no legislative proceedings of the Merovingian line are extant after 615, it is intimated by early writers that Pepin Heristal and his son Charles Martel restored the national council after some interruption; and if the language of certain historians be correct, they rendered it considerably popular.

Pepin the younger, after his accession to the throne, changed the month of this annual assembly from March to May; and we have some traces of what took place at eight sessions during his reign. Of his capitularies, however, one only is said to be made *in generali populi conventu;* the rest are enacted in synods of bishops, and all without exception relate merely to ecclesiastical affairs. And it must be owned that, as in those of the first dynasty, we find generally mention of the optimates who met in these conventions, but rarely any word that can be construed of ordinary freemen.

Such, indeed, is the impression conveyed by a remarkable passage of Hincmar, archbishop of Rheims during the time of Charles the Bald, who has preserved, on the authority of a writer contemporary with Charlemagne, a sketch of the Frankish government under that great prince. Two assemblies (placita) were annually held. In the first, all regulations of importance to the public weal for the ensuing year were enacted; and to this, he says, the whole body of clergy and laity repaired; the greater, to deliberate upon what was fitting to be done; and the lesser, to confirm by their voluntary assent, not through deference to power, or sometimes even to discuss, the resolutions of their superiors. In the second annual assembly, the chief men and officers of state were alone admitted, to consult upon the most urgent affairs of government. They debated, in each of

these, upon certain capitularies, or short proposals, laid before them by the king. The clergy and nobles met in separate chambers, though sometimes united for the purposes of deliberation. In these assemblies, principally, I presume, in the more numerous of the two annually summoned, that extensive body of laws, the capitularies of Charlemagne, were enacted. And though it would contradict the testimony just adduced from Hincmar, to suppose that the lesser freeholders took a very effective share in public counsels, yet their presence, and the usage of requiring their assent, indicate the liberal principles upon which the system of Charlemagne was founded. It is continually expressed in his capitularies and those of his family that they were enacted by general consent. In one of Louis the Debonair we even trace the first germ of representative legislation. Every count is directed to bring with him to the general assembly twelve Scabini, if there should be so many in his county; or, if not, should fill up the number out of the most respectable persons resident. These Scabini were judicial assessors of the count, chosen by the alodial proprietors, in the county court, or mallus, though generally on his nomination.[14]

The circumstances, however, of the French empire for several subsequent ages were exceedingly adverse to such enlarged schemes of polity. The nobles contemned the imbecile descendants of Charlemagne; and the people, or lesser freeholders, if they escaped absolute villenage, lost their immediate relation to the supreme government in the subordination to their lord established by the feudal law. Yet we may trace the shadow of ancient popular rights in one constitutional function of high importance, the choice of a sovereign. Historians who relate the election of an emperor or king of France seldom omit to specify the consent of the multitude, as well as of the temporal and spiritual aristocracy; and even in solemn instruments that record such transactions we find a sort of importance attached to the popular suffrage. It is surely less probable that a recognition of this elective right should have been introduced as a mere ceremony, than that the form should have survived after length of time and revolutions of government had almost obliterated the recollection of its meaning.

It must, however, be impossible to ascertain even the theoretical privileges of the subjects of Charlemagne, much more to decide how far they were substantial or illusory. We can only assert in general that there continued to be some mixture of democracy in the French

[14] The Scabini are not to be confounded, as sometimes has been the case, with the Rachimburgii, who were not chosen by the alodial proprietors, but were themselves such, or sometimes, perhaps, beneficiaries, summoned by the court as jurors were in England. They answered to the *prud' hommes, boni homines*, of later times; they formed the county or the hundred court, for the determination of civil and criminal causes.

constitution during the reigns of Charlemagne and his first successors. The primeval German institutions were not eradicated. In the capitularies the consent of the people is frequently expressed. Fifty years after Charlemagne, his grandson Charles the Bald succinctly expresses the theory of legislative power. A law, he says, is made by the people's consent and the king's enactment. It would hardly be warranted by analogy or precedent to interpret the word people so very narrowly as to exclude any alodial proprietors, among whom, however unequal in opulence, no legal inequality of rank is supposed to have yet arisen.

§ 12. But by whatever authority laws were enacted, whoever were the constituent members of national assemblies, they ceased to be held in about seventy years from the death of Charlemagne. The latest capitularies are of Carloman in 882. From this time there ensues a long blank in the history of French legislation. The kingdom was as a great fief, or rather as a bundle of fiefs, and the king little more than one of a number of feudal nobles, differing rather in dignity than in power from some of the rest. The royal council was composed only of barons, or tenants in chief, prelates, and household officers. These now probably deliberated in private, as we hear no more of the consenting multitude. Political functions were not in that age so clearly separated as we are taught to fancy they should be; this council advised the king in matters of government, confirmed and consented to his grants, and judged in all civil and criminal cases where any peers of their court were concerned.

But, notwithstanding the want of any permanent legislation during so long a period, instances occur in which the kings of France appear to have acted with the concurrence of an assembly more numerous and more particularly summoned than the royal council. At such a congress held in 1146 the crusade of Louis VII. was undertaken. We find also an ordinance of the same prince in some collections, reciting that he had convoked a general assembly at Soissons, where many prelates and barons then present had consented and requested that private wars might cease for the term of ten years. The famous Saladine tithe was imposed upon lay as well as ecclesiastical revenues by a similar convention in 1188. And when Innocent IV., during his contest with the emperor Frederic, requested an asylum in France, St. Louis, though much inclined to favour him, ventured only to give a conditional permission, provided it were agreeable to his barons, whom, he said, a king of France was bound to consult in such circumstances. Accordingly he assembled the French barons, who unanimously refused their consent.

It was the ancient custom of the kings of France as well as of

England, and indeed of all those vassals who affected a kind of sovereignty, to hold general meetings of their barons, called *Cours Plénières*, or *Parliaments*, at the great festivals of the year. These assemblies were principally intended to make a display of magnificence, and to keep the feudal tenants in good humour; nor is it easy to discover that they passed in anything but pageantry. Some respectable antiquaries have, however, been of opinion that affairs of state were occasionally discussed in them; and this is certainly by no means inconsistent with probability, though not sufficiently established by evidence.

Excepting a few instances, most of which have been mentioned, it does not appear that the kings of the house of Capet acted according to the advice and deliberation of any national assembly, such as assisted the Norman sovereigns of England; nor was any consent required for the validity of their edicts, except that of the ordinary council, chiefly formed of their household officers and less powerful vassals. This is at first sight very remarkable. For there can be no doubt that the government of Henry I. or Henry II. was incomparably stronger than that of Louis VI. or Louis VII. But this apparent absoluteness of the latter was the result of their real weakness and the disorganization of the monarchy. The peers of France were infrequent in their attendance upon the king's council, because they denied its coercive authority. It was a fundamental principle that every feudal tenant was so far sovereign within the limits of his fief, that he could not be bound by any law without his consent. The king, says St. Louis in his Establishments, cannot make proclamation, that is, declare any new law, in the territory of a baron, without his consent, nor can the baron do so in that of a vavassor. Thus, if legislative power be essential to sovereignty, we cannot in strictness assert the king of France to have been sovereign beyond the extent of his domanial territory. Nothing can more strikingly illustrate the dissimilitude of the French and English constitutions of government than the sentence above cited from the code of St. Louis.

§ 13. Upon occasions when the necessity of common deliberation, or of giving to new provisions more extensive scope than the limits of a single fief, was too glaring to be overlooked, congresses of neighbouring lords met in order to agree upon resolutions which each of them undertook to execute within his own domains. The king was sometimes a contracting party, but without any coercive authority over the rest. Thus we have what is called an ordinance, but, in reality, an agreement, between the king (Philip Augustus), the countess of Troyes or Champagne, and the lord of Dampierre, relating to the Jews in their domains; which agreement or ordinance, it is said, should endure "until ourselves, and the countess of Troyes,

and Guy de Dampierre, who make this contract, shall dissolve it with the consent of such of our barons as we shall summon for that purpose."

Ecclesiastical councils were another substitute for a regular legislature; and this defect in the political constitution rendered their encroachments less obnoxious, and almost unavoidable. That of Troyes in 878, composed perhaps in part of laymen, imposed a fine upon the invaders of church property. And the council of Toulouse, in 1229, prohibited the erection of any new fortresses, or the entering into any leagues, except against the enemies of religion; and ordained that judges should administer justice gratuitously, and publish the decrees of the council four times in the year.

§ 14. The original exemption of the vassals of the crown from legislative control remained unimpaired at the date of the Establishments of St. Louis, about 1269; and their ill-judged confidence in this feudal privilege still led them to absent themselves from the royal council. It seems impossible to doubt that the barons of France might have asserted the same right which those of England had obtained, that of being duly summoned by special writ, and thus have rendered their consent necessary to every measure of legislation. But the nobility did not long continue safe in their immunity from the king's legislative power.

The ultimate source of this increased authority will be found in the commanding attitude assumed by the kings of France from the reign of Philip Augustus, and particularly in the annexation of the two great fiefs of Normandy and Toulouse. St. Louis, in his scrupulous moderation, forbore to avail himself of all the advantages presented by the circumstances of his reign; and his Establishments bear testimony to a state of political society which, even at the moment of their promulgation, was passing away. The next thirty years after his death, with no marked crisis, and with little disturbance, silently demolished the feudal system, such as had been established in France during the dark confusion of the tenth century. Philip the Fair, by help of his lawyers and his financiers, found himself, at the beginning of the fourteenth century, the real master of his subjects.

§ 15. There was, however, one essential privilege which he could not hope to overturn by force, the immunity from taxation enjoyed by his barons. This, it will be remembered, embraced the whole extent of their fiefs, and their tenantry of every description; the king having no more right to impose a tallage upon the demesne towns of his vassals than upon themselves. Thus his resources, in point of taxation, were limited to his own domains; including certainly, under Philip the Fair, many of the noblest cities in France, but by no means sufficient to meet his increasing necessities. We

have seen already the expedients employed by this rapacious monarch—a shameless depreciation of the coin, and, what was much more justifiable, the levying taxes within the territories of his vassals by their consent. Of these measures, the first was odious, the second slow and imperfect. Confiding in his sovereign authority—though recently, yet almost completely, established—and little apprehensive of the feudal principles, already grown obsolete and discountenanced, he was bold enough to make an extraordinary innovation in the French constitution. This was the convocation of the States-General, a representative body, composed of the three orders of the nation. They were first convened in 1302, in order to give more weight to the king's cause in his great quarrel with Boniface VIII.; but their earliest grant of a subsidy is in 1314. Thus the nobility surrendered to the crown their last privilege of territorial independence; and, having first submitted to its appellant jurisdiction over their tribunals, next to its legislative supremacy, now suffered their own dependants to become, as it were, immediate, and a third estate to rise up almost co-ordinate with themselves, endowed with new franchises, and bearing a new relation to the monarchy.

It is impossible not to perceive the motives of Philip in embodying the deputies of towns as a separate estate in the national representation. He might, no question, have convoked a parliament of his barons, and obtained a pecuniary contribution, which they would have levied upon their burgesses and other tenants. But, besides the ulterior policy of diminishing the control of the barons over their dependants, he had good reason to expect more liberal aid from the immediate representatives of the people than through the concession of a dissatisfied aristocracy.

§ 16. It is very difficult to ascertain the constitutional rights of the States-General, claimed or admitted, during forty years after their first convocation; but if, indeed, we could implicitly confide in an historian of the sixteenth century, who asserts that Louis Hutin bound himself and his successors not to levy any tax without the consent of the three estates, the problem would find its solution. This ample charter does not appear in the French archives; and, though by no means to be rejected on that account, when we consider the strong motives for its destruction, cannot fairly be adduced as an authentic fact. Nor can we altogether infer, perhaps, from the collection of ordinances, that the crown had ever intentionally divested itself of the right to impose tallages on its domanial tenants. All others, however, were certainly exempted from that prerogative; and there seems to have been a general sentiment that no tax whatever could be levied without free consent of the estates. Louis Hutin, in a charter granted to the nobles and burgesses of

Picardy, promises to abolish the unjust taxes (maltotes) imposed by his father; and in another instrument, called the charter of Normandy, declares that he renounces for himself and his successors all undue tallages and exactions, except in case of evident utility. This exception is doubtless of perilous ambiguity; yet, as the charter was literally wrested from the king by an insurrectionary league, it might be expected that the same spirit would rebel against his royal interpretation of state-necessity. His successor, Philip the Long, tried the experiment of a gabelle, or excise upon salt. But it produced so much discontent that he was compelled to assemble the States-General, and to publish an ordinance, declaring that the impost was not designed to be perpetual, and that, if a sufficient supply for the existing war could be found elsewhere, it should instantly determine. Whether this was done I do not discover; nor do I conceive that any of the sons of Philip the Fair, inheriting much of his rapacity and ambition, abstained from extorting money without consent. Philip of Valois renewed and augmented the duties on salt by his own prerogative, nor had the abuse of debasing the current coin been ever carried to such a height as during his reign and the first years of his successor. These exactions, aggravated by the smart of a hostile invasion, produced a very remarkable concussion in the government of France.

§ 17. I have been obliged to advert, in another place, to the memorable resistance made by the States-General of 1355 and 1356 to the royal authority, on account of its inseparable connexion with the civil history of France.[15] In the present chapter the assumption of political influence by those assemblies deserves particular notice. Not that they pretended to restore the ancient constitution of the northern nations, still flourishing in Spain and England, the participation of legislative power with the crown. Five hundred years of anarchy and ignorance had swept away all remembrance of those general diets in which the capitularies of the Carlovingian dynasty had been established by common consent. Charlemagne himself was hardly known to the French of the fourteenth century, except as the hero of some silly romance or ballad. The States-General remonstrated, indeed, against abuses, and especially the most flagrant of all, the adulteration of money; but the ordinance granting redress emanated altogether from the king, and without the least reference to their consent, which sometimes appears to be studiously omitted. But the privilege upon which the States under John solely relied for securing the redress of grievances was that of granting money, and of regulating its collection. The latter, indeed, though for convenience it may be

[15] Chap. i., p. 38.

devolved upon the executive government, appears to be incident to every assembly in which the right of taxation resides. That, accordingly, which met in 1355 nominated a committee chosen out of the three orders, which was to sit after their separation, and which the king bound himself to consult, not only as to the internal arrangements of his administration, but upon every proposition of peace or armistice with England. Deputies were despatched into each district to superintend the collection and receive the produce of the subsidy granted by the States. These assumptions of power would not long, we may be certain, have left the sole authority of legislation in the king, and might, perhaps, be censured as usurpation, if the peculiar emergency in which France was then placed did not furnish their defence.

§ 18. But whatever opportunity might now be afforded for establishing a just and free constitution in France was entirely lost. Charles, inexperienced and surrounded by evil counsellors, thought the States-General inclined to encroach upon his rights, of which, in the best part of his life, he was always abundantly careful. He dismissed, therefore, the assembly, and had recourse to the easy but ruinous expedient of debasing the coin. This led to seditions at Paris, by which his authority, and even his life, were endangered. In February, 1357, three months after the last meeting had been dissolved, he was obliged to convoke the States again, and to enact an ordinance conformable to the petitions tendered by the former assembly. This contained many excellent provisions, both for the redress of abuses and the vigorous prosecution of the war against Edward; and it is difficult to conceive that men who advised measures so conducive to the public weal could have been the blind instruments of the king of Navarre. But this is a problem in history that we cannot hope to resolve. It appears, however, that, in a few weeks after the promulgation of this ordinance the proceedings of the reformers fell into discredit, and their commission of thirty-six, to whom the collection of the new subsidy, the redress of grievances, and, in fact, the whole administration of government had been intrusted, became unpopular. The subsidy produced much less than they had led the people to expect: briefly, the usual consequence of democratical emotions in a monarchy took place. Disappointed by the failure of hopes unreasonably entertained and improvidently encouraged, and disgusted by the excesses of the violent demagogues, the nation, especially its privileged classes, who seem to have concurred in the original proceedings of the States-General, attached themselves to the party of Charles, and enabled him to quell opposition by force. Marcel, provost of the traders, a municipal magistrate of Paris, detected in the overt execution of a traitorous conspiracy with the king of Navarre, was put

to death by a private hand. Whatever there had been of real patriotism in the States-General, artfully confounded, according to the practice of courts, with these schemes of disaffected men, shared in the common obloquy; whatever substantial reforms had been projected the government threw aside as seditious innovations. Charles, who had assumed the title of regent, found in the States-General, assembled at Paris in 1359, a very different disposition from that which their predecessors had displayed, and publicly restored all counsellors whom in the former troubles he had been compelled to discard. Thus the monarchy resettled itself on its ancient basis, or, more properly, acquired additional stability.

§ 19. Both John, after the peace of Bretigni, and Charles V. imposed taxes without consent of the States-General. The latter, indeed, hardly ever convoked that assembly. Upon his death the contention between the crown and representative body was renewed; and, in the first meeting held after the accession of Charles VI., the government was compelled to revoke all taxes illegally imposed since the reign of Philip IV. This is the most remedial ordinance, perhaps, in the history of French legislation. "We will, ordain, and grant," says the king, "that the aids, subsidies, and impositions, of whatever kind, and however imposed, that have had course in the realm since the reign of our predecessor, Philip the Fair, shall be repealed and abolished; and we will and decree that, by the course which the said impositions have had, we or our successors shall not have acquired any right, nor shall any prejudice be wrought to our people, nor to their privileges and liberties, which shall be re-established in as full a manner as they enjoyed them in the reign of Philip the Fair, or at any time since; and we will and decree that, if anything has been done contrary to them since that time to the present hour, neither we nor our successors shall take any advantage therefrom." If circumstances had turned out favourably for the cause of liberty, this ordinance might have been the basis of a free constitution, in respect, at least, of immunity from arbitrary taxation. But the coercive measures of the court and tumultuous spirit of the Parisians produced an open quarrel, in which the popular party met with a decisive failure.

It seems, indeed, impossible that a number of deputies, elected merely for the purpose of granting money, can possess that weight or be invested in the eyes of their constituents with that awfulness of station, which is required to withstand the royal authority. The States-General had no right of redressing abuses, except by petition; no share in the exercise of sovereignty, which is inseparable from the legislative power. Hence, even in their proper department of imposing taxes, they were supposed incapable of binding their constituents without their special assent. Whether it were the timidity

of the deputies, or false notions of freedom, which produced this doctrine, it was evidently repugnant to the stability and dignity of a representative assembly. Nor was it less ruinous in practice than mistaken in theory. For as the necessary subsidies, after being provisionally granted by the States, were often rejected by their electors, the king found a reasonable pretence for dispensing with the concurrence of his subjects when he levied contributions upon them.

The States-General were convoked but rarely under Charles VI. and VII., both of whom levied money without their concurrence. Yet there are remarkable testimonies under the latter of these princes that the sanction of national representatives was still esteemed strictly requisite to any ordinance imposing a general tax, however the emergency of circumstances might excuse a more arbitrary procedure. Thus Charles VII., in 1436, declares that he has set up again the aids which had been previously abolished *by the consent of the three estates.* And in the important edict establishing the companies of ordonnance, which is recited to be done by the advice and counsel of the States-General assembled at Orleans, the forty-first section appears to bear a necessary construction that no tallage could lawfully be imposed without such consent. It is maintained, indeed, by some writers, that the perpetual taille established about the same time was actually granted by these States of 1439, though it does not so appear upon the face of any ordinance. And certainly this is consonant to the real and recognized constitution of that age.

But the crafty advisers of courts in the fifteenth century, enlightened by experience of past dangers, were averse to encountering these great political masses, from which there were, even in peaceful times, some disquieting interferences, some testimonies of public spirit, and recollections of liberty to apprehend. The kings of France, indeed, had a resource, which generally enabled them to avoid a convocation of the States-General, without violating the national franchises. From provincial assemblies, composed of the three orders, they usually obtained more money than they could have extracted from the common representatives of the nation, and heard less of remonstrance and demand. Languedoc in particular had her own assembly of states, and was rarely called upon to send deputies to the general body, or representatives of what was called the Languedoil. But Auvergne, Normandy, and other provinces belonging to the latter division, had frequent convocations of their respective estates during the intervals of the States-General—intervals which by this means were protracted far beyond that duration to which the exigencies of the crown would otherwise have confined them. This was one of the essential differences between the con-

stitutions of France and England, and arose out of the original disease of the former monarchy—the distraction and want of unity consequent upon the decline of Charlemagne's family, which separated the different provinces, in respect of their interests and domestic government, from each other.

§ 20. But the formality of consent, whether by general or provincial states, now ceased to be reckoned indispensable. The lawyers had rarely seconded any efforts to restrain arbitrary power: in their hatred of feudal principles, especially those of territorial jurisdiction, every generous sentiment of freedom was proscribed; or, if they admitted that absolute prerogative might require some checks, it was such only as themselves, not the national representatives, should impose. Charles VII. levied money by his own authority. Louis XI. carried this encroachment to the highest pitch of exaction. It was the boast of courtiers that he first released the kings of France from dependence (*hors de page*); or, in other words, that he effectually demolished those barriers which, however imperfect and ill-placed, had imposed some impediment to the establishment of despotism.

§ 21. The States-General met but twice during the reign of Louis XI., and on neither occasion for the purpose of granting money. But an assembly in the first year of Charles VIII., the States of Tours in 1484, is too important to be overlooked, as it marks the last struggle of the French nation by its legal representatives for immunity from arbitrary taxation.

A warm contention arose for the regency upon the accession of Charles VIII.; between his aunt Anne de Beaujeu, whom the late king had appointed by testament, and the princes of the blood, at the head of whom stood the duke of Orleans, afterwards Louis XII. The latter combined to demand a convocation of the States-General, which accordingly took place. The king's minority and the factions at court seemed no unfavourable omens for liberty. But a scheme was artfully contrived which had the most direct tendency to break the force of a popular assembly. The deputies were classed in six nations, who debated in separate chambers, and consulted each other only upon the result of their respective deliberations. It was easy for the court to foment the jealousies natural to such a partition. Two nations, the Norman and Burgundian, asserted that the right of providing for the regency devolved, in the king's minority, upon the States-General; a claim of great boldness, and certainly not much founded upon precedents. In virtue of this, they proposed to form a council not only of the princes, but of certain deputies to be elected by the six nations who composed the States. But the other four, those of Paris, Aquitaine, Languedoc, and Languedoil (which last comprised the central provinces), rejected this plan, from

which the two former ultimately desisted, and the choice of councillors was left to the princes.

A firmer and more unanimous spirit was displayed upon the subject of public reformation. The tyranny of Louis XI. had been so unbounded, that all ranks agreed in calling for redress, and the new governors were desirous, at least by punishing his favourites, to show their inclination towards a change of system. They were very far, however, from approving the propositions of the States-General. These went to points which no court can bear to feel touched, though there is seldom any other mode of redressing public abuses; the profuse expense of the royal household, the number of pensions and improvident grants, the excessive establishment of troops. The States explicitly demanded that the taille and all other arbitrary imposts should be abolished; and that from thenceforward, "according to the natural liberty of France," no tax should be levied in the kingdom without the consent of the States. It was with great difficulty, and through the skilful management of the court, that they consented to the collection of the taxes payable in the time of Charles VII., with the addition of one-fourth as a gift to the king upon his accession. This subsidy they declare to be granted "by way of gift and concession, and not otherwise, and so as no one should from thenceforward call it a tax, but a gift and concession." And this was only to be in force for two years, after which they stipulated that another meeting should be convoked. But it was little likely that the government would encounter such a risk; and the princes, whose factious views the States had by no means seconded, felt no temptation to urge again their convocation. No assembly in the annals of France seems, notwithstanding some party selfishness arising out of the division into nations, to have conducted itself with so much public spirit and moderation; nor had that country perhaps ever so fair a prospect of establishing a legitimate constitution.

§ 22.—V. The right of jurisdiction has undergone changes in France and in the adjacent countries still more remarkable than those of the legislative power; and passed through three very distinct stages, as the popular, aristocratic, or regal influence predominated in the political system. The Franks, Lombards, and Saxons seem alike to have been jealous of judicial authority, and averse to surrendering what concerned every man's private right out of the hands of his neighbours and his equals. Every ten families are supposed to have had a magistrate of their own election; the tithingman of England, the decanus of France and Lombardy. Next in order was the Centenarius or Hundredary, whose name expresses the extent of his jurisdiction, and who, like the Decanus, was chosen by those subject to it. But the authority of these petty magistrates

was gradually confined to the less important subjects of legal inquiry. No man, by a capitulary of Charlemagne, could be impleaded for his life, or liberty, or lands, or servants in the hundred court. In such weighty matters, or by way of appeal from the lower jurisdictions, the count of the district was judge. He indeed was appointed by the sovereign; but his power was checked by assessors, called Scabini, who held their office by the election, or at least the concurrence, of the people. An ultimate appeal seems to have lain to the Count Palatine, an officer of the royal household; and sometimes causes were decided by the sovereign himself. Such was the original model of judicature; but as complaints of injustice and neglect were frequently made against the counts, Charlemagne, desirous on every account to control them, appointed special judges, called Missi Regii, who held assizes from place to place, inquired into abuses and maladministration of justice, enforced its execution, and expelled inferior judges from their offices for misconduct.

§ 23. This judicial system was gradually superseded by one founded upon totally opposite principles, those of feudal privilege, which led to *territorial jurisdiction*. An alodial freeholder could own no jurisdiction but that of the king. It was the general prevalence of sub-infeudation which gave importance to the territorial jurisdictions of the nobility. For now the military tenants, instead of repairing to the county-court, sought justice in that of their immediate lord; or rather the count himself, become the suzerain instead of the governor of his district, altered the form of his tribunal upon the feudal model. A system of procedure so congenial to the spirit of the age spread universally over France and Germany. The tribunals of the king were forgotten like his laws; the one retaining as little authority to correct, as the other to regulate, the decisions of a territorial judge. The rules of evidence were superseded by that monstrous birth of ferocity and superstition, the judicial combat, and the maxims of law reduced to a few capricious customs, which varied in almost every barony.

These rights of administering justice were possessed by the owners of fiefs in very different degrees; and, in France, were divided into the high, the middle, and the low jurisdiction. The first species alone (la haute justice) conveyed the power of life and death; it was inherent in the baron and the châtelain, and sometimes enjoyed by the simple vavassor. The lower jurisdictions were not competent to judge in capital cases, and consequently forced to send such criminals to the court of the superior. But in some places, a thief taken in the fact might be punished with death by a lord who had only the low jurisdiction. In England this privilege was known by the uncouth terms of Infangthef and Out-

fangthef. The high jurisdiction, however, was not very common in this country, except in the chartered towns.

Several customs rendered these rights of jurisdiction far less instrumental to tyranny than we might infer from their extent. While the counts were yet officers of the crown, they frequently appointed a deputy, or viscount, to administer justice. Ecclesiastical lords, who were prohibited by the canons from inflicting capital punishment, and supposed to be unacquainted with the law followed in civil courts, or unable to enforce it, had an officer by name of advocate, or vidame, whose tenure was often feudal and hereditary. The viguiers (vicarii), bailiffs, provosts, and seneschals of lay lords were similar ministers, though not in general of so permanent a right in their offices, or of such eminent station, as the advocates of monasteries. It seems to have been an established maxim, at least in later times, that the lord could not sit personally in judgment, but must intrust that function to his bailiff and vassals. According to the feudal rules, the lord's vassals or peers of his court were to assist at all its proceedings. And indeed the presence of these assessors was so essential to all territorial jurisdiction, that no lord, to whatever rights of justice his fief might entitle him, was qualified to exercise them, unless he had at least two vassals to sit as peers in his court.

§ 24. These courts of a feudal barony or manor required neither the knowledge of positive law nor the dictates of natural sagacity. In all doubtful cases, and especially where a crime not capable of notorious proof was charged, the combat was awarded; and God, as they deemed, was the judge.[16] The nobleman fought on horseback, with all his arms of attack and defence; the plebeian on foot, with his club and target. The same were the weapons of the champions to whom women and ecclesiastics were permitted to intrust their rights. If the combat was intended to ascertain a civil right, the vanquished party of course forfeited his claim and paid a fine. If he fought by proxy, the champion was liable to have his hand struck off; a regulation necessary, perhaps, to obviate the corruption of these hired defenders. In criminal cases the appellant suffered, in the event of defeat, the same punishment which the law awarded to the offence of which he accused his adversary. Even where the cause was more peaceably tried, and brought to a regular adjudication by the court, an appeal for false judgment might indeed be made to the suzerain, but it could only be tried by battle. And in this, the appellant, if he would impeach the concurrent judgment of the court below, was compelled to meet successively in

[16] Trial by combat does not seem to have established itself completely in France till ordeals went into disuse, which Charlemagne rather encouraged, and which, in his age, the clergy for the most part approved.

combat every one of its members; unless he should vanquish them all within the day, his life, if he escaped from so many hazards, was forfeited to the law. If fortune or miracle should make him conqueror in every contest, the judges were equally subject to death, and their court forfeited their jurisdiction for ever. A less perilous mode of appeal was to call the first judge who pronounced a hostile sentence into the field. If the appellant came off victorious in this challenge, the decision was reversed, but the court was not impeached. But for denial of justice, that is, for a refusal to try his suit, the plaintiff repaired to the court of the next superior lord, and supported his appeal by testimony. Yet, even here, the witnesses might be defied, and the pure stream of justice turned at once into the torrent of barbarous contest.

§ 25. Such was the judicial system of France when St. Louis enacted that great code which bears the name of his Establishments. The rules of civil and criminal procedure, as well as the principles of legal decisions, are there laid down with much detail. But that incomparable prince, unable to overthrow the judicial combat, confined himself to discourage it by the example of a wiser jurisprudence. It was abolished throughout the royal domains. The bailiffs and seneschals who rendered justice to the king's immediate subjects were bound to follow his own laws. He not only received appeals from their sentences in his own court of peers, but listened to all complaints with a kind of patriarchal simplicity. "Many times," says Joinville, "I have seen the good saint, after hearing mass, in the summer season, lay himself at the foot of an oak in the wood of Vincennes, and make us all sit round him; when those who would, came and spake to him without let of any officer, and he would ask aloud if there were any present who had suits; and when they appeared, would bid two of his bailiffs determine their cause upon the spot."

The influence of this new jurisprudence established by St. Louis, combined with the great enhancements of the royal prerogatives in every other respect, produced a rapid change in the legal administration of France. It was, in all civil suits, at the discretion of the litigant parties to adopt the law of the Establishments, instead of resorting to combat. As gentler manners prevailed, especially among those who did not make arms their profession, the wisdom and equity of the new code was naturally preferred. The superstition which had originally led to the latter lost its weight through experience and the uniform opposition of the clergy. The same superiority of just and settled rules over fortune and violence, which had forwarded the encroachments of the ecclesiastical courts, was now manifested in those of the king.

§ 26. Philip Augustus, by a famous ordinance in 1190, first

established royal courts of justice, held by the officers called bailiffs or seneschals, who acted as the king's lieutenants in his domains. Every barony, as it became reunited to the crown, was subjected to the jurisdiction of one of these officers, and took the name of a bailliage or seneschaussée; the former name prevailing most in the northern, the latter in the southern, provinces. The vassals whose lands depended upon, or, in feudal language, moved, from the superiority of this fief, were obliged to submit to the ressort or supreme appellant jurisdiction of the royal court established in it. This began rapidly to encroach upon the feudal rights of justice. In a variety of cases, termed royal, the territorial court was pronounced incompetent; they were reserved for the judges of the crown; and, in every case, unless the defendant excepted to the jurisdiction, the royal court might take cognizance of a suit, and decide it in exclusion of the feudal judicature. The nature of cases reserved under the name of royal was kept in studied ambiguity, under cover of which the judges of the crown perpetually strove to multiply them. Vassals were permitted to complain in the first instance to the king's court, of injuries committed by their lords. These rapid and violent encroachments left the nobility no alternative but armed combinations to support their remonstrances. Philip the Fair bequeathed to his successor the task of appeasing the storm which his own administration had excited. Leagues were formed in most of the northern provinces for the redress of grievances, in which the third estate, oppressed by taxation, united with the vassals, whose feudal privileges had been infringed. Separate charters were granted to each of these confederacies by Louis Hutin, which contain many remedial provisions against the grosser violations of ancient rights, though the crown persisted in restraining territorial jurisdictions. Appeals became more common for false judgment, as well as denial of right; and in neither was the combat permitted. It was still, however, preserved in accusations of heinous crimes, unsupported by any testimony but that of the prosecutor, and was never abolished by any positive law, either in France or England. But instances of its occurrence are not frequent even in the fourteenth century.

§ 27. The supreme council, or court of peers, to whose deliberative functions I have already adverted, was also the great judicial tribunal of the French crown from the accession of Hugh Capet. By this alone the barons of France, or tenants in chief of the king, could be judged. To this court appeals for denials of justice were referred. It was originally composed, as has been observed, of the feudal vassals, co-equals of those who were to be tried by it; and also of the household officers, whose right of concurrence, however anomalous, was extremely ancient. But after the business of the

court came to increase through the multiplicity of appeals, especially from the bailiffs established by Philip Augustus in the royal domains, the barons found neither leisure nor capacity for the ordinary administration of justice, and reserved their attendance for occasions where some of their own orders were implicated in a criminal process. St. Louis, anxious for regularity and enlightened decisions, made a considerable alteration by introducing some councillors of inferior rank, chiefly ecclesiastics, as advisers of the court, though, as is supposed, without any decisive suffrage. The court now became known by the name of PARLIAMENT. Registers of its proceedings were kept, of which the earliest extant are of the year 1254. It was still, perhaps, in some degree ambulatory; but by far the greater part of its sessions in the thirteenth century were at Paris. The councillors nominated by the king, some of them clerks, others of noble rank, but not peers of the ancient baronage, acquired insensibly a right of suffrage.

An ordinance of Philip the Fair, in 1302, is generally supposed to have fixed the seat of parliament at Paris, as well as altered its constituent parts. Perhaps a series of progressive changes has been referred to a single epoch. But whether by virtue of this ordinance, or of more gradual events, the character of the whole feudal court was nearly obliterated in that of the parliament of Paris. A systematic tribunal took the place of a loose aristocratic assembly. It was to hold two sittings in the year, each of two months' duration; it was composed of two prelates, two counts, thirteen clerks, and as many laymen. Great changes were made afterwards in this constitution. The nobility, who originally sat there, grew weary of an attendance which detained them from war, and from their favourite pursuits at home. The bishops were dismissed to their necessary residence upon their sees. As they withdrew, a class of regular lawyers, originally employed, as it appears, in the preparatory business, without any decisive voice, came forward to the higher places, and established a complicated and tedious system of procedure, which was always characteristic of French jurisprudence. They introduced at the same time a new theory of absolute power and unlimited obedience. All feudal privileges were treated as encroachments on the imprescriptible rights of monarchy. With the natural bias of lawyers in favour of prerogative conspired that of the clergy, who fled to the king for refuge against the tyranny of the barons. In the civil and canon laws a system of political maxims was found very uncongenial to the feudal customs. The French lawyers of the fourteenth and fifteenth centuries frequently give their king the title of emperor, and treat disobedience to him as sacrilege.

§ 28. But among these lawyers, although the general tenants of

the crown by barony ceased to appear, there still continued to sit a more eminent body, the lay and spiritual peers of France, representatives, as it were, of that ancient baronial aristocracy. It is a very controverted question at what time this exclusive dignity of peerage, a word obviously applicable by the feudal law to all persons co-equal in degree of tenure, was reserved to twelve vassals. At the coronation of Philip Augustus, in 1179, we first perceive the six great feudatories, dukes of Burgundy, Normandy, Guienne, counts of Toulouse, Flanders, Champagne, distinguished by the offices they performed in that ceremony. It was natural, indeed, that, by their princely splendour and importance, they should eclipse such petty lords as Bourbon and Coucy, however equal in quality of tenure. During the reign of Philip Augustus, six ecclesiastical peers, the duke-bishops of Rheims, Loan, and Langres, the count-bishops of Beauvais, Châlons, and Noyon, were added as a sort of parallel or counterpoise. Their precedence does not, however, appear to have carried with it any other privilege, at least in judicature, than other barons enjoyed. But their pre-eminence being fully confirmed, Philip the Fair set the precedent of augmenting their original number, by conferring the dignity of peerage on the duke of Britany and the count of Artois. Other creations took place subsequently; but these were confined, during the period comprised in this work, to princes of the royal blood. The peers were constant members of the parliament, from which other vassals holding in chief were never, perhaps, excluded by law, but their attendance was rare in the fourteenth century, and soon afterwards ceased altogether.

§ 29. A judicial body, composed of the greatest nobles in France, as well as of learned and eminent lawyers, must naturally have soon become politically important. Notwithstanding their disposition to enhance every royal prerogative, as opposed to feudal privileges, the parliament was not disinclined to see its own protection invoked by the subject. During the tempests of Charles VI.'s unhappy reign the parliament acquired a more decided authority, and held, in some degree, the balance between the contending factions of Orleans and Burgundy. This influence was partly owing to one remarkable function attributed to the parliament, which raised it much above the level of a merely political tribunal, and has at various times wrought striking effects in the French monarchy.

The few ordinances enacted by kings of France in the twelfth and thirteenth centuries were generally by the advice of their royal council, in which probably they were solemnly declared as well as agreed upon. But after the gradual revolution of government, which took away from the feudal aristocracy all control over the king's edicts, and substituted a new magistracy for the ancient baronial court, these legislative ordinances were commonly drawn up by the

interior council, or what we may call the ministry. They were in some instances promulgated by the king in parliament. Others were sent thither for registration or entry upon their records. This formality was by degrees, if not from the beginning, deemed essential to render them authentic and notorious, and therefore indirectly gave them the sanction and validity of a law. In course of time it claimed to itself the right of judging the expediency of edicts proceeding from the king, and we find it as early as the fifteenth century manifesting pretensions of this nature: first, by registering ordinances in such a manner as to testify its own unwillingness and disapprobation, and, afterwards, by remonstrating against and delaying the registration of laws which it deemed inimical to the public interest. A conspicuous proof of this spirit was given in their opposition to Louis XI. when repealing the Pragmatic Sanction of his father—an ordinance essential, in their opinion, to the liberties of the Gallican church. In this instance they ultimately yielded; but at another time they persisted in a refusal to enregister letters containing an alienation of the royal domain.

The counsellors of parliament were originally appointed by the king; and they were even changed according to circumstances. But in 1468 Louis XI. published a most important ordinance, declaring the presidents and counsellors of parliament immoveable, except in case of legal forfeiture. This extraordinary measure of conferring independence on a body which had already displayed a consciousness of its eminent privilege by opposing the registration of his edicts, is perhaps to be deemed a proof of that shortsightedness as to points of substantial interest so usually found in crafty men. But, be this as it may, there was formed in the parliament of Paris an independent power not emanating from the royal will, nor liable, except through force, to be destroyed by it; which, in later times, became almost the sole depository, if not of what we should call the love of freedom, yet of public spirit and attachment to justice. France, so fertile of great men in the sixteenth and seventeenth centuries, might better spare, perhaps, from her annals any class and description of them than her lawyers. Doubtless the parliament of Paris, with its prejudices and narrow views, its high notions of loyal obedience so strangely mixed up with remonstrances and resistance, its anomalous privilege of objecting to edicts, hardly approved by the nation who did not participate in it, and overturned with facility by the king whenever he thought fit to exert the sinews of his prerogative, was but an inadequate substitute for that co-ordinate sovereignty, that equal concurrence of national representatives in legislation, which has long been the exclusive pride of our government, and to which the States-General of France, in their best days, had never aspired. No man of sane understanding would desire to

revive institutions both uncongenial to modern opinions and to the natural order of society. Yet the name of the parliament of Paris must ever be respectable. It exhibited upon various occasions virtues from which human esteem is as inseparable as the shadow from the substance—a severe adherence to principles, an unaccommodating sincerity, individual disinterestedness and consistency.[17]

§ 30. The principal causes that operated in subverting the feudal system may be comprehended under three distinct heads—the increasing power of the crown, the elevation of the lower ranks, and the decay of the feudal principle.

It has been my object in the last pages to point out the acquisitions of power by the crown of France in respect of legislative and judicial authority. The principal augmentations of its domain have been historically mentioned in the last chapter. The French kings naturally acted upon a system, in order to recover those possessions which the improvidence or necessities of the Carlovingian race had suffered almost to fall away from the monarchy. This course, pursued with tolerable steadiness for two or three centuries, restored their effective power. By escheat or forfeiture, by bequest or purchase, by marriage or succession, a number of fiefs were merged in their increasing domain. The reunion of so many fiefs was attempted to be secured by a legal principle, that the domain was inalienable and imprescriptible. This became at length a fundamental maxim in the law of France. But there was one species of infeudation so consonant to ancient usage and prejudice that it could not be avoided upon any suggestions of policy; this was the investiture of younger princes of the blood with considerable territorial appanages. It is remarkable that the epoch of appanages on so great a scale was the reign of St. Louis, whose efforts were constantly directed against feudal independence. Yet he invested his brothers with the counties of Poitou, Anjou, and Artois, and his sons with those of Clermont and Alençon. This practice, in later times, produced very mischievous consequences.

§ 31. Under a second class of events that contributed to destroy the spirit of the feudal system we may reckon the abolition of villenage, the increase of commerce and consequent opulence of merchants and artisans, and especially the institutions of free cities and boroughs. This is one of the most important and interesting steps in the progress of society during the middle ages, and deserves particular consideration.

[17] A work has appeared within a few years which throws an abundant light on the judicial system, and indeed on the whole civil polity of France, as well as other countries, during the middle ages. I allude to 'L'Esprit, Origine, et Progrès des Institutions judiciaires des principaux Pays de l'Europe,' by M. Meyer, of Amsterdam; especially the first and third volumes.

The provincial cities under the Roman empire enjoyed, as is well known, a municipal magistracy and the right of internal regulation. Nor was it repugnant to the spirit of the Frank or Gothic conquerors to leave them in possession of these privileges. The continuance of municipal institutions has been traced in several cities, especially in the south of France, from the age of the Roman empire to the twelfth century, when the formal charters of communities first appear.[18]

The earliest charters of community granted to towns in France have been commonly referred to the time of Louis VI. Noyon, St. Quentin, Laon, and Amiens appear to have been the first that received emancipation at the hands of this prince. The chief towns in the royal domains were successively admitted to the same privileges during the reigns of Louis VI., Louis VII., and Philip Augustus. This example was gradually followed by the peers and other barons; so that by the end of the thirteenth century the custom had prevailed over all France. This enfranchisement of the towns seems to have been due, both in the king and his barons, to their pecuniary exigencies; for we could hardly doubt that their concessions were sold at the highest price, even if the existing charters did not exhibit the fullest proof of it. It is obvious, however, that the coarser methods of rapine must have grown obsolete, and the rights of the inhabitants of towns to property established, before they could enter into any compact with their lord for the purchase of liberty.

In some cases they were indebted for success to their own courage and love of liberty. Oppressed by the exactions of their superiors, they had recourse to arms, and united themselves in a common league, confirmed by oath, for the sake of redress. Several charters bear witness that this spirit of resistance was justified by oppression. Louis VII. frequently declares the tyranny exercised over the towns to be his motive for enfranchising them.

§ 32. The privileges which these towns of France derived from their charters were surprisingly extensive; especially if we do not suspect some of them to be merely in confirmation of previous usages. They were made capable of possessing common property, and authorized to use a common seal as the symbol of their incorporation. The more oppressive and ignominious tokens of subjection, such as the fine paid to the lord for permission to marry their children, were abolished. Their payments of rent or tribute were limited both in amount and as to the occasions when they might be demanded: and these were levied by assessors of their own electing. Some obtained an exemption from assisting their

[18] See NOTE III. 'Municipal Government.'

lord in war; others were only bound to follow him when he personally commanded; and almost all limited their service to one, or, at the utmost, very few days. If they were persuaded to extend its duration, it was, like that of feudal tenants, at the cost of their superior. Their customs, as to succession and other matters of private right, were reduced to certainty, and, for the most part, laid down in the charter of incorporation. And the observation of these was secured by the most valuable privilege which the chartered towns obtained—that of exemption from the jurisdiction, as well of the royal as the territorial judges. They were subject only to that of magistrates, either wholly elected by themselves, or, in some places, with a greater or less participation of choice in the lord. They were empowered to make special rules, or, as we call them, by-laws, so as not to contravene the provisions of their charter or the ordinances of the king.

It was undoubtedly far from the intention of those barons who conferred such immunities upon their subjects to relinquish their own superiority and rights not expressly conceded. But a remarkable change took place in the beginning of the thirteenth century, which affected, in a high degree, the feudal constitution of France. Towns, distrustful to their lord's fidelity, sometimes called in the king as guarantee of his engagements. The first stage of royal interference led to a more extensive measure. Philip Augustus granted letters of safeguard to communities dependent upon the barons, assuring to them his own protection and patronage. And this was followed up so quickly by the court, if we believe some writers, that in the next reign Louis VIII. pretended to the immediate sovereignty over all chartered towns, in exclusion of their original lords. Nothing, perhaps, had so decisive an effect in subverting the feudal aristocracy. The barons perceived, too late, that, for a price long since lavished in prodigal magnificence or useless warfare, they had suffered the source of their wealth to be diverted, and the nerves of their strength to be severed. The government prudently respected the privileges secured by charter. Philip the Long established an officer in all large towns to preserve peace by an armed police; but, though subject to the orders of the crown, he was elected by the burgesses, and they took a mutual oath of fidelity to each other. Thus shielded under the king's mantle, they ventured to encroach upon the neighbouring lords, and to retaliate for the long oppression of the commonalty. Every citizen was bound by oath to stand by the common cause against all aggressors, and this obligation was abundantly fulfilled. In order to swell their numbers, it became the practice to admit all who came to reside within their walls to the rights of burghership, even though they were villeins appurtenant to the soil of a master from

whom they had escaped. Others, having obtained the same privileges, continued to dwell in the country; but, upon any dispute with their lords, called in the assistance of their community. In the reign of Charles V. the feudal independence had so completely yielded, that the court began to give in to a new policy, which was ever after pursued, that of maintaining the dignity and privileges of the noble class against those attacks which wealth and liberty encouraged the plebeians to make upon them.

The maritime towns of the south of France entered into separate alliances with foreign states; as Narbonne with Genoa in 1166, and Montpellier in the next century. At the death of Raymond VII., Avignon, Arles, and Marseilles affected to set up republican governments; but they were soon brought into subjection. The independent character of maritime towns was not peculiar to those of the southern provinces. Edward II. and Edward III. negotiated and entered into alliances with the towns of Flanders, to which neither their count nor the king of France were parties. Even so late as the reign of Louis XI. the duke of Burgundy did not hesitate to address the citizens of Rouen, in consequence of the capture of some ships, as if they had formed an independent state. This evidently arose out of the ancient customs of private warfare, which, long after they were repressed by a stricter police at home, continued with lawless violence on the ocean, and gave a character of piracy to the commercial enterprise of the middle ages.

§ 33. Notwithstanding the forces which in opposite directions assailed the feudal system from the enhancement of royal prerogative, and the elevation of the chartered towns, its resistance would have been much longer, but for an intrinsic decay. No political institution can endure which does not rivet itself to the hearts of men by ancient prejudice or acknowledged interest. The feudal compact had originally much of this character. Its principle of vitality was warm and active. In fulfilling the obligations of mutual assistance and fidelity by military service, the energies of friendship were awakened, and the ties of moral sympathy superadded to those of positive compact. While private wars were at their height, the connexion of lord and vassal grew close and cordial, in proportion to the keenness of their enmity towards others.

But the nature of feudal obligation was far better adapted to the partial quarrels of neighbouring lords than to the wars of kingdoms. Customs, founded upon the poverty of the smaller gentry, had limited their martial duties to a period never exceeding forty days, and diminished according to the subdivisions of the fief. They could undertake an expedition, but not a campaign; they could burn an open town, but had seldom leisure to besiege a fortress. Hence, when the kings of France and England were engaged in wars

which, on our side at least, might be termed national, the inefficiency of the feudal militia became evident. It was not easy to employ the military tenants of England upon the frontiers of Normandy and the Isle of France, within the limits of their term of service. When, under Henry II. and Richard I., the scene of war was frequently transferred to the Garonne or the Charenté, this was still more impracticable. The first remedy to which sovereigns had recourse was to keep their vassals in service after the expiration of their forty days, at a stipulated rate of pay. But this was frequently neither convenient to the tenant, anxious to return back to his household, nor to the king, who could not readily defray the charges of an army. Something was to be devised more adequate to the exigency, though less suitable to the feudal spirit. By the feudal law the fief was, in strictness, forfeited by neglect of attendance upon the lord's expedition. A milder usage introduced a fine, which, however, was generally rather heavy, and assessed at discretion. The first Norman kings of England made these amercements very oppressive. But when a pecuniary payment became the regular course of redeeming personal service, which, under the name of escuage, may be referred to the reign of Henry II., it was essential to liberty that the military tenant should not lie at the mercy of the crown. Accordingly, one of the most important provisions contained in the Magna Charta of John secures the assessment of escuage in parliament. This is not renewed in the charter of Henry III., but the practice during his reign was conformable to its spirit.

The feudal military tenures had superseded that earlier system of public defence which called upon every man, and especially every landholder, to protect his country. The relations of a vassal came in place of those of a subject and a citizen. This was the revolution of the ninth century. In the twelfth and thirteenth another innovation rather more gradually prevailed, and marks the third period in the military history of Europe. Mercenary troops were substituted for the feudal militia. Undoubtedly there could never have been a time when valour was not to be purchased with money; nor could any employment of surplus wealth be more natural either to the ambitious or the weak. But we cannot expect to find numerous testimonies of facts of this description. In public national history I am aware of no instance of what may be called a regular army more ancient than the body-guards, or huscarles, of Canute the Great. These select troops amounted to six thousand men, on whom he probably relied to ensure the subjection of England. A code of martial law compiled for their regulation is extant in substance; and they are reported to have displayed a military spirit of mutual union, of which their master stood in awe. Harold II. is also said

to have had Danish soldiers in pay. The most eminent example of a mercenary army is that by whose assistance William achieved the conquest of England. Historians concur in representing this force to have consisted of sixty thousand men. He afterwards hired soldiers from various regions to resist an invasion from Norway. William Rufus pursued the same course. Hired troops did not, however, in general form a considerable portion of armies till the wars of Henry II. and Philip Augustus. Each of these monarchs took into pay large bodies of mercenaries, chiefly, as we may infer from their appellation of Brabançons, enlisted from the Netherlands. These were always disbanded on cessation of hostilities; and, unfit for any habits but of idleness and licence, oppressed the peasantry and ravaged the country without control. In the French wars of Edward III. the whole, I think, of his army served for pay, and was raised by contract with men of rank and influence, who received wages for every soldier according to his station and the arms he bore. The rate of pay was so remarkably high, that, unless we imagine a vast profit to have been intended for the contractors, the private lancers and even archers must have been chiefly taken from the middling classes, the smaller gentry, or rich yeomanry of England.[19] This part of Edward's military system was probably a leading cause of his superiority over the French, among whom the feudal tenantry were called into the field, and swelled their unwieldy armies at Crecy and Poitiers. Both parties, however, in this war employed mercenary troops. Philip had 15,000 Italian crossbow-men at Crecy. It had for some time before become the trade of soldiers of fortune to enlist under leaders of the same description as themselves in companies of adventure, passing from one service to another, unconcerned as to the cause in which they were retained. These military adventurers played a more remarkable part in Italy than in France, though not a little troublesome to the latter country. The feudal tenures had at least furnished a loyal native militia, whose duties, though much limited in the extent, were defined by usage and enforced by principle. They gave place—in an evil hour for the people, and eventually for sovereigns—to contracts with mutinous hirelings, generally strangers, whose valour in the day of battle inadequately redeemed their bad faith and vexatious rapacity. France, in her calamitous period under Charles VI. and Charles VII., experienced the full effects of military licentiousness. At the expulsion of the English, robbery and disorder were substituted for the more specious plun-

[19] The wages allowed by contract in 1346, were for an earl, 6*s.* 8*d.* per day; for barons and baronets, 4*s.*; for knights, 2*s.*; for squires, 1*s.*; for archers and hobelers (light cavalry), 6*d.*; for archers on foot, 3*d.*; for Welshmen, 2*d.* These sums, multiplied by about 24, to bring them on a level with the present value of money, will show the pay to have been extremely high. The cavalry, of course, furnished themselves with horses and equipments, as well as arms, which were very expensive.

dering of war. Perhaps few measures have ever been more popular, as few certainly have been more politic, than the establishment of regular companies of troops by an ordinance of Charles VII. in 1444. These may justly pass for the earliest institution of a standing army in Europe, though some Italian princes had retained troops constantly in their pay, but prospectively to hostilities, which were seldom long intermitted. Fifteen companies were composed each of a hundred men-at-arms, or lancers; and, in the language of that age, the whole body was 1500 lances. But each lancer had three archers, a coutiller, or soldier armed with a knife, and a page or valet attached to him, all serving on horseback—so that the fifteen companies amounted to 9000 cavalry. From these small beginnings, as they must appear in modern times, arose the regular army of France, which every succeeding king was solicitous to augment. The ban was sometimes convoked, that is, the possessors of fiefs were called upon for military service in subsequent ages; but with more of ostentation than real efficiency.

§ 34. The feudal compact, thus deprived of its original efficacy, soon lost the respect and attachment which had attended it. Homage and investiture became unmeaning ceremonies; the incidents of relief and aid were felt as burthensome exactions. And indeed the rapacity with which these were levied, especially by our Norman sovereigns and their barons, was of itself sufficient to extinguish all the generous feelings of vassalage. Thus galled, as it were, by the armour which he was compelled to wear, but not to use, the military tenant of England looked no longer with contempt upon the owner of lands in socage, who held his estate with almost the immunities of an alodial proprietor. But the profits which the crown reaped from wardships, and perhaps the prejudices of lawyers, prevented the abolition of military tenures till the restoration of Charles II. In France the fiefs of noblemen were very unjustly exempted from all territorial taxation, though the tailles of later times had, strictly speaking, only superseded the aids to which they had been always liable. The distinction, it is well known, was not annihilated till that event which annihilated all distinctions, the French revolution.

It is remarkable that, although the feudal system established in England upon the Conquest broke in very much upon our ancient Saxon liberties—though it was attended with harsher servitudes than in any other country, particularly those two intolerable burthens, wardship and marriage—yet it has in general been treated with more favour by English than French writers. The hardiness with which the ancient barons resisted their sovereign, and the noble struggles which they made for civil liberty, especially in that Great Charter, the basement at least, if not the foundation, of our free constitution, have met with a kindred sympathy in the bosoms of Englishmen;

while, from an opposite feeling, the French have been shocked at that aristocratic independence which cramped the prerogatives and obscured the lustre of their crown. Yet it is precisely to this feudal policy that France is indebted for that which is ever dearest to her children, their national splendour and power. That kingdom would have been irretrievably dismembered in the tenth century, if the laws of feudal dependence had not preserved its integrity. Empires of unwieldy bulk, like that of Charlemagne, have several times been dissolved by the usurpation of provincial governors, as is recorded both in ancient history and in that of the Mahometan dynasties in the East. What question can there be that the powerful dukes of Guienne or counts of Toulouse would have thrown off all connexion with the crown of France, when usurped by one of their equals, if the slight dependence of vassalage had not been substituted for legitimate subjection to a sovereign?

It is the previous state of society, under the grandchildren of Charlemagne, which we must always keep in mind, if we would appreciate the effects of the feudal system upon the welfare of mankind. The institutions of the eleventh century must be compared with those of the ninth, not with the advanced civilization of modern times. If the view that I have taken of those dark ages is correct, the state of anarchy which we usually term feudal was the natural result of a vast and barbarous empire feebly administered, and the cause rather than effect of the general establishment of feudal tenures. These, by preserving the mutual relations of the whole, kept alive the feeling of a common country and common duties, and settled, after the lapse of ages, into the free constitution of England, the firm monarchy of France, and the federal union of Germany.

The utility of any form of polity may be estimated by its effect upon national greatness and security, upon civil liberty and private rights, upon the tranquillity and order of society, upon the increase and diffusion of wealth, or upon the general tone of moral sentiment and energy. The feudal constitution was certainly, as has been observed already, little adapted for the defence of a mighty kingdom, far less for schemes of conquest. But as it prevailed alike in several adjacent countries, none had anything to fear from the military superiority of its neighbours. It was this inefficiency of the feudal militia, perhaps, that saved Europe during the middle ages from the danger of universal monarchy. If an empire equally extensive with that of Charlemagne, and supported by military despotism, had been formed about the twelfth or thirteenth centuries, the seeds of commerce and liberty, just then beginning to shoot, would have perished, and Europe, reduced to a barbarous servitude, might have fallen before the free barbarians of Tartary.

If we look at the feudal polity as a scheme of civil freedom, it bears a noble countenance. To the feudal law it is owing that the very names of right and privilege were not swept away, as in Asia, by the desolating hand of power. The tyranny which, on every favourable moment, was breaking through all barriers, would have rioted without control, if, when the people were poor and disunited, the nobility had not been brave and free. So far as the sphere of feudality extended, it diffused the spirit of liberty and the notions of private right. Every one, I think, will acknowledge this who considers the limitations of the services of vassalage, so cautiously marked in those law-books which are the records of customs, the reciprocity of obligation between the lord and his tenant, the consent required in every measure of a legislative or a general nature, the security, above all, which every vassal found in the administration of justice by his peers, and even (we may in this sense say) in the trial by combat. The bulk of the people, it is true, were degraded by servitude; but this had no connexion with the feudal tenures.

The peace and good order of society were not promoted by this system. Though private wars did not originate in the feudal customs, it is impossible to doubt that they were perpetuated by so convenient an institution, which indeed owed its universal establishment to no other cause. And as predominant habits of warfare are totally irreconcileable with those of industry, not merely by the immediate works of destruction which render its efforts unavailing, but through that contempt of peaceful occupations which they produce, the feudal system must have been intrinsically adverse to the accumulation of wealth and the improvement of those arts which mitigate the evils or abridge the labours of mankind.

But as a school of moral discipline the feudal institutions were perhaps most to be valued. Society had sunk, for several centuries after the dissolution of the Roman empire, into a condition of utter depravity, where, if any vices could be selected as more eminently characteristic than others, they were falsehood, treachery, and ingratitude. In slowly purging off the lees of this extreme corruption, the feudal spirit exerted its ameliorating influence. Violation of faith stood first in the catalogue of crimes, most repugnant to the very essence of a feudal tenure, most severely and promptly avenged, most branded by general infamy. The feudal law-books breathe throughout a spirit of honourable obligation. The feudal course of jurisdiction promoted—what trial by peers is peculiarly calculated to promote—a keener feeling and readier perception of moral as well as of legal distinctions. And as the judgment and sympathy of mankind are seldom mistaken, in these great points of veracity and justice, except through the temporary success of crimes, or the want

of a definite standard of right, they gradually recovered themselves when law precluded the one and supplied the other. In the reciprocal services of lord and vassal there was ample scope for every magnanimous and disinterested energy. The heart of man, when placed in circumstances which have a tendency to excite them, will seldom be deficient in such sentiments. No occasions could be more favourable than the protection of a faithful supporter, or the defence of a beneficient suzerain, against such powerful aggression as left little prospect except of sharing in his ruin.

From these feelings engendered by the feudal relation has sprung up the peculiar sentiment of personal reverence and attachment towards a sovereign which we denominate loyalty; alike distinguishable from the stupid devotion of Eastern slaves, and from the abstract respect with which free citizens regard their chief magistrate. Men who had been used to swear fealty, to profess subjection, to follow, at home, and in the field, a feudal superior and his family, easily transferred the same allegiance to the monarch. It was a very powerful feeling which could make the bravest men put up with slights and ill treatment at the hands of their sovereign; or call forth all the energies of disinterested exertion for one whom they never saw, and in whose character there was nothing to esteem. In ages when the rights of the community were unfelt, this sentiment was one great preservative of society; and, though collateral or even subservient to more enlarged principles, it is still indispensable to the tranquillity and permanence of every monarchy. In a moral view loyalty has scarcely perhaps less tendency to refine and elevate the heart than patriotism itself; and holds a middle place in the scale of human motives, as they ascend from the grosser inducements of self-interest to the furtherance of general happiness and conformity to the purposes of Infinite Wisdom.

NOTES TO CHAPTER II.

I. THE SALIC AND OTHER LAWS OF THE BARBARIANS.

The Salic law exists in two texts: one purely Latin, of which there are fifteen manuscripts; the other mingled with German words, of which there are three. Most have considered the latter to be the original; the manuscripts containing it are entitled *Lex Salica antiquissima*, or *vetustior;* the others generally run *Lex Salica recentior*, or *emendata*. This seems to create a presumption. But others think the pure Latin older than the other. But though the Salic law in its present text is probably not older than the seventh century, it must be referred, in all its substance, to Germany for its birth-place, and to the period of heathenism for its date. (Lehuërou, *Institutions Mérovingiennes*, p. 83.)

The Ripuarian Franks, Guizot, with some apparent reason, takes for the progenitors of the Austrasians; the Salian, of the Neustrians. The former were settled on the left bank of the Rhine, as *Læti*, or defenders of the frontier, under the empire. These tribes were united under one government through the assassination of Sigebert at Cologne, in the last years of Clovis, who assumed his crown. Such a theory might tend to explain the subsequent rivalry of these great portions of the Frank monarchy, though it is hardly required for that purpose. The Ripuarian code of law is referred by Guizot to the reign of Dagobert. In this code we find, says Guizot, "more of the Roman law, more of the royal and ecclesiastical power; its provisions are more precise, more extensive, less barbarous; it indicates a further step in the transition from the German to the Roman form of social life." ('Civil. en France,' Leçon 10.)

The Burgundian law, though earlier than either of these in their recensions, displays a far more advanced state of manners. The Burgundian and Roman are placed on the same footing; more is borrowed from the civil law; the royal power is more developed. This code remained in force after Charlemagne; but Hincmar says that few continued to live by it. In the Visigothic laws enacted in Spain, to the exclusion of the Roman, in 642, all the barbarous elements have disappeared; it is the work of the clergy, half ecclesiastical, half imperial.

It has been remarked by acute writers, Guizot and Treja, that the Salic law does not answer the purpose of a code, being silent on some of the most important regulations of civil society. The rules of the Salic code principally relate to the punishment or compensation of crimes; and the same will be found in our earliest Anglo-Saxon laws. The object of such written laws, with a free and barbarous people, was not to record their usages, or to lay down rules which natural equity would suggest as the occasion might arise, but to prevent the arbitrary infliction of penalties. Chapter lxii., 'On Successions,' may have been inserted for the sake of the novel provision about Salic lands, which could not have formed a part of old Teutonic customs.

II. TRIBUTARII, LIDI, AND COLONI.

These names, though in a general sense occupying similar positions in the social scale, denote different persons. The *Coloni* were Romans, in the sense of the word then usual; that is, they were the cultivators of land under the empire, of whom we find abundant notice both in the Theodosian Code and that of Justinian. The Roman colonus was free; he could marry a free woman, and have legitimate children; he could serve in the army, and was capable of property; his peculium, unlike that of the absolute slave, could not be touched by his master. Nor could his fixed rent or duty be enhanced. He could even sue his master for any crime committed with respect to him, or for undue exaction. He was attached, on the other hand, to the soil, and might in certain cases receive corporal punishment. He paid a capitation tax or census to the state, the frequent enhancement of which contributed to that decline of the agricultural population which preceded the barbarian conquest. The documents of the middle ages furnish abundant proofs of the con-

tinuance of the coloni in this middle state between entire freedom and servitude. And these were doubtless reckoned among the *Tributarii* of the Salic law, whose composition was fixed at forty-five solidi; for a slave had no composition due to his kindred; he was his master's chattel, and to be paid for as such. But the tributary was not necessarily a colonus. All who possessed no lands were subjected by the imperial fisc to a personal capitation. To these Roman tributaries the barbarian *Lidi* seem nearly to have corresponded. This was a class not quite freeborn; so that "Francus ingenuus" was no tautology, as some have fancied, yet far from slaves; without political privileges or rights of administering justice in the county court, and so little favoured, that, while the Frank accused of a theft was to be brought before his peers, the lidus, under the name of "debilior persona," which probably included the Roman tributary, was to be hanged on the spot. Throughout the Salic and Ripuarian codes the ingenuus is opposed both to the lidus and to the servus; so that the threefold division is incontestable. It corresponds in a certain degree to the *edelingi*, *frilingi*, and *lassi*, or the *eorl*, *ceorl*, and *thrall* of the northern nations.

III. MUNICIPAL GOVERNMENT.

The privileges of the municipal cities of Italy were originally founded on the republican institutions of Rome herself; the supreme power, so far as it was conceded, and the choice of magistrates, rested with the assembly of the citizens. But after Tiberius took this away from the Roman comitia to vest it in the senate, it appears that this example was followed in every provincial city. We find everywhere a class named "curiales," or "decuriones" (synonymous words), in whom, or in those elected by them, resided whatever authority was not reserved to the proconsul or other Roman magistrate. Besides these there was Defensor Civitatis—a standing advocate for the city against the oppression of the provincial governor. His office is only known by the laws from the middle of the fourth century, the earliest being of Valentinian and Valens, in 365; but both Cicero (Epist. xii. 56) and Pliny (Epist. x. 3) mention an Ecdicus with something like the same functions; and Justinian always uses that word to express the Defensor Civitatis. He was chosen for five years, not by the curiales, but by the citizens at large. Nor could any decurion be defensor; he was to be taken "ex aliis idoneis personis."

From the curiales, or members of the curia, there was in later times formed a senate, sometimes called "nobilissima curia." The name of senator was given to a privileged class, who, having served through all the public functions of the curia, were entitled to a legal exemption in future, and ascended to the dignity of "clarissimi." Many others, independent of the decurions, obtained this rather by the emperor's favour, or by the performance of duties which regularly led to it. They were nominated by the emperor, and might be removed by him; but otherwise their rank was hereditary. In this way the senators became an aristocracy, and formed the nobility of Gaul.

Under the domination of the Franks, it appears that the functions of "defensor civitatis" frequently devolved upon the bishop. In course of time the bishop became as much the civil governor of his city as the count was of the rural district. This was a great revolution in the internal history of cities, and one which generally led to the discontinuance of their popular institutions; so that after the reign of Charlemagne, if not earlier, we may perhaps consider a municipality choosing its own officers as an exception, though not a very unfrequent one, to the general usage. But instances of this are more commonly found to the south of the Loire, where Roman laws prevailed and the feudal spirit was less vigorous than in the northern provinces.

CHAPTER III.

THE HISTORY OF ITALY, FROM THE EXTINCTION OF THE CARLOVINGIAN EMPERORS TO THE INVASION OF NAPLES BY CHARLES VIII.

PART I.

§ 1. State of Italy after the Death of Charles the Fat. Coronation of Otho the Great. § 2. State of Rome. Conrad II. § 3. Union of the Kingdom of Italy with the Empire. § 4. Period between Conrad II. and Frederic Barbarossa. § 5. Establishment of the Normans in Naples and Sicily. Roger Guiscard. § 6. Rise of the Lombard cities. § 7. Their internal wars. Frederic Barbarossa. Destruction of Milan. § 8. Lombard League, § 9. Battle of Legnano. Peace of Constance. § 10. Affairs of Sicily. § 11. Temporal Principality of the Popes. § 12. Guelf and Ghibelin Factions. § 13. Otho IV. § 14. Frederic II. § 15. Arrangement of the Italian Republics. § 16. Second Lombard War. § 17. Extinction of the House of Suabia. § 18. Causes of the Success of Lombard Republics. Their Prosperity. § 19. Their Forms of Government. § 20. Contentions between the Nobility and People. Civil Wars.

§ 1. AT the death of Charles the Fat in 888, that part of Italy which acknowledged the supremacy of the Western empire was divided, like France and Germany, among a few powerful vassals, hereditary governors of provinces. The principal of these were the dukes of Spoleto and Tuscany, the marquises of Ivrea, Susa, and Friuli. The great Lombard duchy of Benevento, which had stood against the arms of Charlemagne, and comprised more than half the present kingdom of Naples, had now fallen into decay, and was straitened by the Greeks in Apulia, and by the principalities of Capua and Salerno, which had been severed from its own territory, on the opposite coast. Though princes of the Carlovingian line continued to reign in France, their character was too little distinguished to challenge the obedience of Italy, already separated by family partitions from the Transalpine nations; and the only contest was among her native chiefs. One of these, Berenger, originally marquis of Friuli, or the March of Treviso, reigned for thirty-six years, but with continually disputed pretensions; and after his death the calamities of Italy were sometimes aggravated by tyranny, and sometimes by intestine war.[1] The Hungarians desolated Lombardy;

[1] Berenger, being grandson, by a daughter, of Louis the Debonair, may be reckoned of the Carlovingian family.

the southern coasts were infested by the Saracens, now masters of Sicily. Plunged in an abyss, from which she saw no other means of extricating herself, Italy lost sight of her favourite independence, and called in the assistance of Otho the First, king of Germany. Little opposition was made to this powerful monarch. Berenger II., the reigning sovereign of Italy, submitted to hold the kingdom of him as a fief. But some years afterwards, new disturbances arising, Otho descended from the Alps a second time, deposed Berenger, and received at the hands of Pope John XII. the imperial dignity, which had been suspended for nearly forty years (A.D. 962).

§ 2. Every ancient prejudice, every recollection, whether of Augustus or of Charlemagne, had led the Italians to annex the notion of sovereignty to the name of Roman Emperor; nor were Otho, or his two immediate descendants, by any means inclined to waive these supposed prerogatives, which they were well able to enforce. Most of the Lombard princes acquiesced without apparent repugnance in the new German government, which was conducted by Otho the Great with much prudence and vigour, and occasionally with severity. The citizens of Lombardy were still better satisfied with a change that ensured a more tranquil and regular administration than they had experienced under the preceding kings. But in one, and that the chief of Italian cities, very different sentiments were prevalent. We find, indeed, a considerable obscurity spread over the internal history of Rome during the long period from the recovery of Italy by Belisarius to the end of the eleventh century. The popes appear to have possessed some measure of temporal power, even while the city was professedly governed by the exarchs of Ravenna, in the name of the Eastern empire. This power became more extensive after her separation from Constantinople. It was, however, subordinate to the undeniable sovereignty of the new imperial family, who were supposed to enter upon all the rights of their predecessors. There was always an imperial officer, or prefect, in that city, to render criminal justice; an oath of allegiance to the emperor was taken by the people; and upon any irregular election of a pope, a circumstance by no means unusual, the emperors held themselves entitled to interpose. But the spirit and even the institutions of the Romans were republican. Amidst the darkness of the tenth century, which no contemporary historian dissipates, we faintly distinguish the awful names of senate, consuls, and tribunes, the domestic magistracy of Rome. These shadows of past glory strike us at first with surprise; yet there is no improbability in the supposition that a city so renowned and populous, and so happily sheltered from the usurpation of the Lombards, might have preserved, or might afterwards establish, a kind of municipal government, which it would be

natural to dignify with those august titles of antiquity. During that anarchy which ensued upon the fall of the Carlovingian dynasty, the Romans acquired an independence which they did not deserve. The city became a prey to the most terrible disorders; the papal chair was sought for at best by bribery or controlling influence, often by violence and assassination; it was filled by such men as naturally rise by such means, whose sway was precarious, and generally ended either in their murder or degradation. For many years the supreme pontiffs were forced upon the church by two women of high rank but infamous reputation, Theodora and her daughter Marozia. The kings of Italy, whose election in a diet of Lombard princes and bishops at Roncaglia was not conceived to convey any pretension to the sovereignty of Rome, could never obtain any decided influence in papal elections, which were the object of struggling factions among the resident nobility. In this temper of the Romans, they were ill disposed to resume habits of obedience to a foreign sovereign. The next year after Otho's coronation they rebelled, the pope at their head (A.D. 963); but were of course subdued without difficulty. The same republican spirit broke out whenever the emperors were absent in Germany, especially during the minority of Otho III., and directed itself against the temporal superiority of the pope. But when that emperor attained manhood he besieged and took the city, crushing all resistance by measures of severity; and especially by the execution of the consul Crescentius, a leader of the popular faction, to whose instigation the tumultuous licence of Rome was principally ascribed.

§ 3. At the death of Otho III. without children, in 1002, the compact between Italy and the emperors of the house of Saxony was determined. Her engagement of fidelity was certainly not applicable to every sovereign whom the princes of Germany might raise to their throne. Accordingly Ardoin marquis of Ivrea was elected king of Italy. But a German party existed among the Lombard princes and bishops, to which his insolent demeanour soon gave a pretext for inviting Henry II., the new king of Germany, collaterally related to their late sovereign. Ardoin was deserted by most of the Italians, but retained his former subjects in Piedmont, and disputed the crown for many years with Henry, who passed very little time in Italy. During this period there was hardly any recognised government; and the Lombards became more and more accustomed, through necessity, to protect themselves, and to provide for their own internal police. Meanwhile the German nation had become odious to the Italians. The rude soldiery, insolent and addicted to intoxication, were engaged in frequent disputes with the citizens, wherein the latter, as is usual in similar cases, were exposed first to the summary vengeance of the troops, and afterwards to

penal chastisement for sedition. In one of these tumults, at the entry of Henry II. in 1004, the city of Pavia was burned to the ground, which inspired its inhabitants with a constant animosity against that emperor. Upon his death in 1024, the Italians were disposed to break once more their connexion with Germany, which had elected as sovereign Conrad duke of Franconia. They offered their crown to Robert king of France, and to William duke of Guienne; but neither of them was imprudent enough to involve himself in the difficult and faithless politics of Italy. Eribert, archbishop of Milan, accompanied by some other chief men of Lombardy, repaired to Constance, and tendered the crown to Conrad, which he was already disposed to claim as a sort of dependency upon Germany (A.D. 1024). It does not appear that either Conrad or his successors were ever regularly elected to reign over Italy; but whether this ceremony took place or not, we may certainly date from that time the subjection of Italy to the Germanic body. It became an unquestionable maxim, that the votes of a few German princes conferred a right to the sovereignty of a country which had never been conquered, and which had never formally recognised this superiority. But it was an equally fundamental rule, that the elected king of Germany could not assume the title of Roman Emperor until his coronation by the pope. The middle appellation of King of the Romans was invented as a sort of approximation to the imperial dignity. But it was not till the reign of Maximilian that the actual coronation at Rome was dispensed with, and the title of emperor taken immediately after the election.

§ 4. The period between Conrad of Franconia and Frederic Barbarossa, or from about the middle of the eleventh to that of the twelfth century, is marked by three great events in Italian history; the struggle between the empire and the papacy for ecclesiastical investitures, the establishment of the Norman kingdom in Naples, and the formation of distinct and nearly independent republics among the cities of Lombardy. The first of these will find a more appropriate place in a subsequent chapter, where I shall trace the progress of ecclesiastical power. But it produced a long and almost incessant state of disturbance in Italy; and should be mentioned at present as one of the main causes which excited in that country a systematic opposition to the imperial authority.

The southern provinces of Italy, in the beginning of the eleventh century, were chiefly subject to the Greek empire, which had latterly recovered part of its losses, and exhibited some ambition and enterprise, though without any intrinsic vigour. They were governed by a lieutenant, styled Catapan,[2] who resided at Bari in

[2] Catapanus, from κατὰ πᾶν, one employed in general administration of affairs.

Apulia. On the Mediterranean coast three duchies, or rather republics, of Naples, Gaeta, and Amalfi, had for several ages preserved their connexion with the Greek empire, and acknowledged its nominal sovereignty. The Lombard principalities of Benevento, Salerno, and Capua had much declined from their ancient splendour. The Greeks were, however, not likely to attempt any further conquests: the court of Constantinople had relapsed into its usual indolence; nor had they much right to boast of successes rather due to the Saracen auxiliaries whom they hired from Sicily. No momentous revolution apparently threatened the south of Italy, and least of all could it be anticipated from what quarter the storm was about to gather.

§ 5. The followers of Rollo, who rested from plunder and piracy in the quiet possession of Normandy, became devout professors of the Christian faith, and particularly addicted to the custom of pilgrimage, which gratified their curiosity and spirit of adventure. In small bodies, well armed on account of the lawless character of the countries through which they passed, the Norman pilgrims visited the shrines of Italy and even the Holy Land. Some of these, very early in the eleventh century, were engaged by a Lombard prince of Salerno against the Saracens, who had invaded his territory; and through that superiority of valour, and perhaps of corporal strength, which this singular people seem to have possessed above all other Europeans, they made surprising havoc among the enemy. This exploit led to fresh engagements, and these engagements drew new adventurers from Normandy; they founded the little city of Aversa, near Capua, and were employed by the Greeks against the Saracens of Sicily. But, though performing splendid services in this war, they were ill repaid by their ungrateful employers; and being by no means of a temper to bear with injury, they revenged themselves by a sudden invasion of Apulia. This province was speedily subdued, and divided among twelve Norman counts; but soon afterwards Robert Guiscard, one of twelve brothers, many of whom were renowned in these Italian wars, acquired the sovereignty; and, adding Calabria to his conquests, put an end to the long dominion of the Eastern emperors in Italy. He reduced the principalities of Salerno and Benevento; in the latter instance sharing the spoil with the pope, who took the city to himself, while Robert retained the territory. His conquests in Greece, which he invaded with the magnificent design of overthrowing the Eastern empire, were at least equally splendid, though less durable (A.D. 1061). Roger, his younger brother, undertook meanwhile the romantic enterprise of conquering the island of Sicily with a small body of Norman volunteers. But the Saracens were broken into petty states, and discouraged by the bad success of their brethren in Spain and Sar-

dinia. After many years of war Roger became sole master of Sicily, and took the title of Count. The son of this prince, upon the extinction of Robert Guiscard's posterity, united the two Norman sovereignties, and, subjugating the free republics of Naples and Amalfi, and the principality of Capua, established a boundary which has hardly been changed since his time (A.D. 1127).

The first successes of these Norman leaders were viewed unfavourably by the popes. Leo IX. marched in person against Robert Guiscard with an army of German mercenaries, but was beaten and made prisoner in this unwise enterprise, the scandal of which nothing but good fortune could have lightened. He fell, however, into the hands of a devout people, who implored his absolution for the crime of defending themselves; and, whether through gratitude, or as the price of his liberation, invested them with their recent conquests in Apulia, as fiefs of the Holy See. This investiture was repeated and and enlarged as the popes, especially in their contention with Henry IV. and Henry V., found the advantage of using the Normans as faithful auxiliaries. Finally, Innocent II., in 1139, conferred upon Roger the title of King of Sicily. It is difficult to understand by what pretence these countries could be claimed by the see of Rome in sovereignty, unless by virtue of the pretended donation of Constantine, or that of Louis the Debonair, which is hardly less suspicious; and least of all how Innocent II. could surrender the liberties of the city of Naples, whether that was considered as an independent republic, or as a portion of the Greek empire. But the Normans, who had no title but their swords, were naturally glad to give an appearance of legitimacy to their conquest; and the kingdom of Naples, even in the hands of the most powerful princes in Europe, never ceased to pay a feudal acknowledgment to the chair of St. Peter.

§ 6. The revolutions which time brought forth on the opposite side of Italy were still more interesting. Under the Lombard and French princes every city with its adjacent district was subject to the government and jurisdiction of a count, who was himself subordinate to the duke or marquis of the province. From these counties it was the practice of the first German emperors to dismember particular towns or tracts of country, granting them upon a feudal tenure to rural lords, by many of whom also the same title was assumed. Thus by degrees the authority of the original officers was confined almost to the walls of their own cities; and in many cases the bishops obtained a grant of the temporal government, and exercised the functions which had belonged to the count.

It is impossible to ascertain the time at which the cities of Lombardy began to assume a republican form of government, or to trace with precision the gradations of their progress. These cities were far

more populous and better defended than those of France; they had learned to stand sieges in the Hungarian invasions of the tenth century, and had acquired the right of protecting themselves by strong fortifications. Those which had been placed under the temporal government of their bishops had peculiar advantages in struggling for emancipation. This circumstance in the state of Lombardy I consider as highly important towards explaining the subsequent revolution. Notwithstanding several exceptions, a churchman was less likely to be bold and active in command than a soldier; and the sort of election which was always necessary, and sometimes more than nominal, on a vacancy of the see, kept up among the citizens a notion that the authority of their bishop and chief magistrate emanated in some degree from themselves. In many instances, especially in the church of Milan, the earliest perhaps, and certainly the most famous of Lombard republics, there occurred a disputed election; two, or even three, competitors claimed the archiepiscopal functions, and were compelled, in the absence of the emperors, to obtain the exercise of them by means of their own faction among the citizens.

These were the general causes which, operating at various times during the eleventh century, seem gradually to have produced a republican form of government in the Italian cities. But this part of history is very obscure. The archives of all cities before the reign of Frederic Barbarossa have perished. We perceive, however, throughout the eleventh century, that the cities were continually in warfare with each other. This, indeed, was according to the manners of that age, and no inference can absolutely be drawn from it as to their internal freedom. But it is observable that their chronicles speak, in recording these transactions, of the people, and not of their leaders, which is the true republican tone of history. Thus, in the Annals of Pisa, we read, under the years 1002 and 1004, of victories gained by the Pisans over the people of Lucca; in 1006, that the Pisans and Genoese conquered Sardinia. These annals, indeed, are not by a contemporary writer, nor perhaps, of much authority. But we have an original account of a war that broke out in 1057, between Pavia and Milan, in which the citizens are said to have raised armies, made alliances, hired foreign troops, and, in every respect acted like independent states. There was, in fact, no power left in the empire to control them. The two Henrys IV. and V. were so much embarrassed during the quarrel concerning investitures, and the continual troubles of Germany, that they were less likely to interfere with the rising freedom of the Italian cities than to purchase their assistance by large concessions. Henry IV. granted a charter to Pisa, in 1081, full of the most important privileges, promising even not to name any marquis of Tuscany

without the people's consent; and it is possible that, although the instruments have perished, other places might obtain similar advantages. However this may be, it is certain that before the death of Henry V., in 1125, almost all the cities of Lombardy, and many among those of Tuscany, were accustomed to elect their own magistrates, and to act as independent communities in waging war and in domestic government.

The territory subjected originally to the count or bishop of these cities had been reduced, as I mentioned above, by numerous concessions to the rural nobility. But the new republics, deeming themselves entitled to all which their former governors had once possessed, began to attack their nearest neighbours, and to recover the sovereignty of all their ancient territory. They besieged the castles of the rural counts, and successively reduced them into subjection. They suppressed some minor communities, which had been formed in imitation of themselves by little towns belonging to their district. Sometimes they purchased feudal superiorities or territorial jurisdictions, and, according to a policy not unusual with the stronger party, converted the rights of property into those of government. Hence, at the middle of the twelfth century, we are assured by a contemporary writer that hardly any nobleman could be found, except the marquis of Montferrat, who had not submitted to some city. We may except also, I should presume, the families of Este and Malaspina, as well as that of Savoy. Muratori produces many charters of mutual compact between the nobles and the neighbouring cities; whereof one invariable article is, that the former should reside within the walls a certain number of months in the year. The rural nobility, thus deprived of the independence which had endeared their castles, imbibed a new ambition of directing the municipal government of the cities, which consequently, during this period of the republics, fell chiefly into the hands of the superior families. It was the sagacious policy of the Lombards to invite settlers by throwing open to them the privileges of citizenship, and sometimes they even bestowed them by compulsion. Sometimes a city, imitating the wisdom of ancient Rome, granted these privileges to all the inhabitants of another. Thus the principal cities, and especially Milan, reached, before the middle of the twelfth century, a degree of population very far beyond that of the capitals of the great kingdoms. Within their strong walls and deep trenches, and in the midst of their well-peopled streets, the industrious dwelt secure from the licence of armed pillagers and the oppressors of feudal tyrants. Artisans, whom the military landholders contemned, acquired, and deserved the right of bearing arms for their own and the public defence. Their occupations became liberal, because they were the foundation of their political franchises; the citizens were

classed in companies according to their respective crafts, each of which had its tribune or standard bearer (gonfalonier), at whose command, when any tumult arose or enemy threatened, they rushed in arms to muster in the market-place.

But, unhappily, we cannot extend the sympathy which institutions so full of liberty create to the national conduct of these little republics. Their love of freedom was alloyed by that restless spirit, from which a democracy is seldom exempt, of tyrannising over weaker neighbours. They played over again the tragedy of ancient Greece, with all its circumstances of inveterate hatred, unjust ambition, and atrocious retaliation, though with less consummate actors upon the scene. Among all the Lombard cities, Milan was the most conspicuous, as well for power and population as for the abuse of those resources by arbitrary and ambitious conduct. Thus, in 1111, they razed the town of Lodi to the ground, distributing the inhabitants among six villages, and subjecting them to an unrelenting despotism. Thus, in 1118, they commenced a war of ten years' duration with the little city of Como; but the surprising perseverance of its inhabitants procured for them better terms of capitulation, though they lost their original independence. The Cremonese treated so harshly the town of Crema that it revolted from them, and put itself under the protection of Milan. Cities of more equal forces carried on interminable hostilities by wasting each other's territory, destroying the harvests, and burning the villages.

The sovereignty of the emperors, meanwhile, though not very effective, was in theory always admitted. Their name was used in public acts, and appeared upon the coin. When they came into Italy they had certain customary supplies of provisions, called fodrum regale, at the expense of the city where they resided; during their presence all inferior magistracies were suspended, and the right of jurisdiction devolved upon them alone. But such was the jealousy of the Lombards, that they built the royal palaces outside their gates; a precaution to which the emperors were compelled to submit. This was at a very early time a subject of contention between the inhabitants of Pavia and Conrad II., whose palace, seated in the heart of the city, they had demolished in a sedition, and were unwilling to rebuild in that situation.

§ 7. Such was the condition of Italy when Frederic Barbarossa, duke of Suabia, and nephew of the last emperor, Conrad III., ascended the throne of Germany (A.D. 1152). His accession forms the commencement of a new period, the duration of which is about one hundred years, and which is terminated by the death of Conrad IV., the last emperor of the house of Suabia. It is characterised, like the former, by three distinguishing features in Italian history; the victorious struggle of the Lombard and other cities for independence,

the final establishment of a temporal sovereignty over the middle provinces by the popes, and the union of the kingdom of Naples to the dominions of the house of Suabia.

In Frederic Barbarossa the Italians found a very different sovereign from the two last emperors, Lothaire and Conrad III., who had seldom appeared in Italy, and with forces quite inadequate to control such insubordinate subjects. The distinguished valour and ability of this prince rendered a severe and arbitrary temper and a haughty conceit of his imperial rights more formidable. He believed that, as successor of Augustus, he inherited the kingdoms of the world. In the same right, he more powerfully, if not more rationally, laid claim to the entire prerogatives of the Roman emperors over their own subjects; and in this the professors of the civil law—which was now diligently studied—lent him their aid with the utmost servility. To such a disposition the self-government of the Lombard cities appeared mere rebellion. Milan especially, the most renowned of them all, drew down upon herself his inveterate resentment. He found, unfortunately, too good a pretence in her behaviour towards Lodi. Two natives of that ruined city threw themselves at the emperor's feet, imploring him, as the ultimate source of justice, to redress the wrongs of their country. It is a striking proof of the terror inspired by Milan that the consuls of Lodi disavowed the complaints of their countrymen, and the inhabitants trembled at the danger of provoking a summary vengeance, against which the imperial arms seemed no protection. The Milanese, however, abstained from attacking the people of Lodi, though they treated with contempt the emperor's order to leave them at liberty. Frederic meanwhile came into Italy, and held a diet at Roncaglia, where complaints poured in from many quarters against the Milanese. Pavia and Cremona, their ancient enemies, were impatient to renew hostilities under the imperial auspices. Brescia, Tortona, and Crema were allies, or rather dependents, of Milan. Frederic soon took occasion to attack the latter confederacy. Tortona was compelled to surrender and levelled to the ground. But a feudal army was soon dissolved; the emperor had much to demand his attention at Rome, where he was on ill terms with Adrian IV.; and when the imperial troops were withdrawn from Lombardy, the Milanese rebuilt Tortona, and expelled the citizens of Lodi from their dwellings. Frederic assembled a fresh army, to which almost every city of Lombardy, willingly or by force, contributed its militia. It is said to have exceeded a hundred thousand men. The Milanese shut themselves up within their walls; and perhaps might have defied the Imperial forces, if their immense population, which gave them confidence in arms, had not exposed them to a different enemy. Milan was obliged by hunger to capitulate, upon conditions not very severe, if

a vanquished people could ever safely rely upon the convention that testifies their submission.

Frederic, after the surrender of Milan, held a diet at Roncaglia, where the effect of his victories was fatally perceived (A.D. 1158). The bishops, the higher nobility, the lawyers, vied with one another in exalting his prerogatives. He defined the regalian rights, as they were called, in such a manner as to exclude the cities and private proprietors from coining money, and from tolls or territorial dues, which they had for many years possessed. These, however, he permitted them to retain for a pecuniary stipulation. A more important innovation was the appointment of magistrates, with the title of podestà, to administer justice concurrently with the consuls; but he soon proceeded to abolish the latter office in many cities, and to throw the whole government into the hands of his own magistrates. He prohibited the cities from levying war against each other. It may be presumed that he showed no favour to Milan. The capitulation was set at nought in its most express provisions; a podestà was sent to supersede the consuls, and part of the territory taken away. Whatever might be the risk of resistance, and the Milanese had experience enough not to undervalue it, they were determined rather to see their liberties at once overthrown than gradually destroyed by a faithless tyrant. They availed themselves of the absence of his army to renew the war. Its issue was more calamitous than that of the last. Almost all Lombardy lay patient under subjection. The small town of Crema, always the faithful ally of Milan, stood a memorable siege against the imperial army; but the inhabitants were ultimately compelled to capitulate for their lives, and the vindictive Cremonese razed their dwellings to the ground. But all smaller calamities were forgotten when the great city of Milan, worn out by famine rather than subdued by force, was reduced to surrender at discretion. Lombardy stood in anxious suspense to know the determination of Frederic respecting this ancient metropolis, the seat of the early Christian emperors, and second only to Rome in the hierarchy of the Latin church. A delay of three weeks excited fallacious hopes; but at the end of that time an order was given to the Milanese to evacuate their habitations. The deserted streets were instantly occupied by the imperial army; the people of Pavia and Cremona, of Lodi and Como, were commissioned to revenge themselves on the respective quarters of the city assigned to them; and in a few days the pillaged churches stood alone amidst the ruins of what had been Milan (A.D. 1162).

There was now little left of that freedom to which Lombardy had aspired: it was gone like a pleasant dream, and she awoke to the fears and miseries of servitude. Frederic obeyed the dictates of his vindictive temper, and of the policy usual among statesmen. He

abrogated the consular regimen in some even of the cities which had supported him, and established his podestà in their place. This magistrate was always a stranger, frequently not even an Italian; and he came to his office with all those prejudices against the people he was to govern which cut off every hope of justice and humanity. The citizens of Lombardy, especially the Milanese, who had been dispersed in the villages adjoining their ruined capital, were unable to meet the perpetual demands of tribute. In some parts, it is said, two-thirds of the produce of their lands, the only wealth that remained, were extorted from them by the imperial officers. It was in vain that they prostrated themselves at the feet of Frederic. He gave at the best only vague promises of redress; they were in his eyes rebels; his delegates had acted as faithful officers, whom, even if they had gone a little beyond his intentions, he could not be expected to punish.

§ 8. But there still remained at the heart of Lombardy the strong principle of national liberty, imperishable among the perishing armies of her patriots, inconsumable in the conflagration of her cities. Those whom private animosities had led to assist the German conqueror blushed at the degradation of their country, and at the share they had taken in it. A league was secretly formed, in which Cremona, one of the chief cities on the imperial side, took a prominent part. Those beyond the Adige, hitherto not much engaged in the disputes of central Lombardy, had already formed a separate confederacy to secure themselves from encroachments, which appeared the more unjust, as they had never borne arms against the emperor. Their first successes corresponded to the justice of their cause; Frederic was repulsed from the territory of Verona, a fortunate augury for the rest of Lombardy (A.D. 1164). These two clusters of cities on the east and west of the Adige now united themselves into the famous Lombard league, the terms of which were settled in a general diet. Their alliance was to last twenty years, during which they pledged themselves to mutual assistance against any one who should exact more from them than they had been used to perform from the time of Henry to the first coming of Frederic into Italy; implying in this the recovery of their elective magistracies, their rights of war and peace, and those lucrative privileges which, under the name of regalian, had been wrested from them in the diet of Roncaglia.

§ 9. This union of the Lombard cities was formed at a very favourable juncture. Frederic had almost ever since his accession been engaged in open hostility with the see of Rome, and was pursuing the fruitless policy of Henry IV., who had endeavoured to substitute an anti-pope of his own faction for the legitimate pontiff. In the prosecution of this scheme he had besieged Rome with a

great army, which, the citizens resisting longer than he expected, fell a prey to the autumnal pestilence which visits the neighbourhood of that capital. The flower of German nobility was cut off by this calamity, and the emperor recrossed the Alps, entirely unable for the present to withstand the Lombard confederacy. Their first overt act of insurrection was the rebuilding of Milan; the confederate troops all joined in this undertaking; and the Milanese, still numerous, though dispersed and persecuted, revived as a powerful republic. Lodi was compelled to enter into the league; Pavia alone continued on the imperial side. As a check to Pavia, and to the marquis of Montferrat, the most potent of the independent nobility, the Lombards planned the erection of a new city between the confines of these two enemies, in a rich plain to the south of the Po, and bestowed upon it, in compliment to the pope, Alexander III., the name of Alessandria. Though, from its hasty construction, Alessandria was even in that age deemed rude in appearance, it rapidly became a thriving and populous city. The intrinsic energy and resources of Lombardy were now made manifest. Frederic, who had triumphed by their disunion, was unequal to contend against their league. After several years of indecisive war the emperor invaded the Milanese territory; but the confederates gave him battle, and gained a complete victory at Legnano (A.D. 1176). Frederic escaped alone and disguised from the field, with little hope of raising a fresh army, though still reluctant from shame to acquiesce in the freedom of Lombardy. He was at length persuaded, through the mediation of the republic of Venice, to consent to a truce of six years, the provisional terms of which were all favourable to the league. It was, weakened, however, by the defection of some of its own members; Cremona, which had never cordially united with her ancient enemies, made separate conditions with Frederic, and suffered herself to be named among the cities on the imperial side in the armistice. Tortona and even Alessandria followed the same course during the six years of its duration; a fatal testimony of unsubdued animosities, and omen of the calamities of Italy. At the expiration of the truce Frederic's anxiety to secure the crown for his son overcame his pride, and the famous peace of Constance established the Lombard republics in real independence (A.D. 1183).

By the treaty of Constance the cities were maintained in the enjoyment of all the regalian rights, whether within their walls or in their district, which they could claim by usage. Those of levying war, of erecting fortifications, and of administering civil and criminal justice, were specially mentioned. The nomination of their consuls, or other magistrates, was left absolutely to the citizens; but they were to receive the investiture of their office from an imperial legate. The customary tributes of provision during the emperor's residence

in Italy were preserved; and he was authorized to appoint in every city a judge of appeal in civil causes. The Lombard league was confirmed, and the cities were permitted to renew it at their own discretion; but they were to take, every ten years, an oath of fidelity to the emperor. This just compact preserved, along with every security for the liberties and welfare of the cities, as much of the imperial prerogatives as could be exercised by a foreign sovereign consistently with the people's happiness.

§ 10. Frederic did not attempt to molest the cities of Lombardy in the enjoyment of those privileges conceded by the treaty of Constance. His ambition was diverted to a new scheme for aggrandising the house of Suabia by the marriage of his eldest son Henry with Constance, the aunt and heiress of William II., king of Sicily. That kingdom, which the first monarch Roger had elevated to a high pitch of renown and power, fell into decay through the misconduct of his son William, surnamed the Bad, and did not recover much of its lustre under the second William, though styled the Good. His death without issue was apparently no remote event; and Constance was the sole legitimate survivor of the royal family. It is a curious circumstance that no hereditary kingdom appears absolutely to have excluded females from its throne, except that which from its magnitude was of all the most secure from falling into the condition of a province. The Sicilians felt too late the defect of their constitution, which permitted an independent people to be transferred, as the dowry of a woman, to a foreign prince, by whose ministers they might justly expect to be insulted and oppressed. Henry, whose marriage with Constance took place in 1186, and who succeeded in her right to the throne of Sicily three years afterwards, was exasperated by a courageous but unsuccessful effort of the Norman barons to preserve the crown for an illegitimate branch of the royal family; and his reign is disgraced by a series of atrocious cruelties. The power of the house of Suabia was now at its zenith on each side of the Alps; Henry received the imperial crown the year after his father's death in the third crusade, and even prevailed upon the princes of Germany to elect his infant son Frederic as his successor. But his own premature decease clouded the prospects of his family: Constance survived him but a year; and a child of four years old was left with the inheritance of a kingdom which his father's severity had rendered disaffected, and which the leaders of German mercenaries in his service desolated and disputed.

§ 11. During the minority of Frederic II., from 1196 to 1216, the papal chair was filled by Innocent III., a name second only, and hardly second, to that of Gregory VII. Young, noble, and intrepid, he united with the accustomed spirit of ecclesiastical usurpation, which no one had ever carried to so high a point, the more worldly

ambition of consolidating a separate principality for the Holy See in the centre of Italy. The real or spurious donations of Constantine, Pepin, Charlemagne, and Louis, had given rise to a perpetual claim, on the part of the popes, to very extensive dominions; but little of this had been effectuated, and in Rome itself they were thwarted by the prefect, an officer who swore fidelity to the emperor, and by the insubordinate spirit of the people. In the very neighbourhood the small cities owned no subjection to the capital, and were probably as much self-governed as those of Lombardy. One is transported back to the earliest times of the republic in reading of the desperate wars between Rome and Tibur or Tusculum; neither of which was subjugated till the latter part of the twelfth century. At a further distance were the duchy of Spoleto, the march of Ancona, and what had been the exarchate of Ravenna, to all of which the popes had more or less grounded pretensions. Early in the last-mentioned age the famous countess Matilda, to whose zealous protection Gregory VII. had been eminently indebted during his long dispute with the emperor, granted the reversion of all her possessions to the Holy See, first in the lifetime of Gregory, and again under the pontificate of Paschal III. These were very extensive, and held by different titles. Of her vast imperial fiefs, Mantua, Modena, and Tuscany, she certainly could not dispose. The duchy of Spoleto and march of Ancona were supposed to rest upon a different footing. These had been formerly among the great fiefs of the kingdom of Italy. They are commonly considered as her alodial or patrimonial property; yet it is not easy to see how, being herself a subject of the empire, she could transfer even her alodial estates from its sovereignty. Nor, on the other hand, can it apparently be maintained that she was lawful sovereign of countries which had not long since been imperial fiefs, and the suzerainty over which had never been renounced. The original title of the Holy See, therefore, does not seem incontestable even as to this part of Matilda's donation. It is certain, however, that the emperors kept possession of the whole during the twelfth century, and treated both Spoleto and Ancona as parts of the empire, notwithstanding continual remonstrances from the Roman pontiffs. Frederic Barbarossa, at the negotiations of Venice in 1177, promised to restore the patrimony of Matilda in fifteen years; but at the close of that period Henry VI. was not disposed to execute this arrangement, and granted the county in fief to some of his German followers. Upon his death the circumstances were favourable to Innocent III. The infant king of Sicily had been intrusted by Constance to his guardianship. A double election of Philip, brother of Henry VI., and of Otho duke of Brunswick, engaged the princes of Germany, who had entirely overlooked the claims of young Frederic, in a doubtful civil war.

Neither party was in a condition to enter Italy; and the imperial dignity was vacant for several years, till, the death of Philip removing one competitor, Otho IV., whom the pope had constantly favoured, was crowned emperor. During this interval the Italians had no superior; and Innocent availed himself of it to maintain the pretensions of the see. These he backed by the production of rather a questionable document, the will of Henry VI., said to have been found among the baggage of Marquard, one of the German soldiers who had been invested with fiefs by the late emperor. The cities of what we now call the ecclesiastical state had in the twelfth century their own municipal government like those of Lombardy; but they were far less able to assert a complete independence. They gladly, therefore, put themselves under the protection of the Holy See, which held out some prospect of securing them from Marquard and other rapacious partisans, without disturbing their internal regulations. Thus the duchy of Spoleto and march of Ancona submitted to Innocent III.; but he was not strong enough to keep constant possession of such extensive territories, and some years afterwards adopted the prudent course of granting Ancona in fief to the marquis of Este. He did not, as may be supposed, neglect his authority at home; the prefect of Rome was now compelled to swear allegiance to the pope, which put an end to the regular imperial supremacy over that city, and the privileges of the citizens were abridged. This is the proper era of that temporal sovereignty which the bishops of Rome possess over their own city, though still prevented by various causes, for nearly three centuries, from becoming unquestioned and unlimited.

§ 12. In the wars of Frederic Barbarossa against Milan and its allies, we have seen the cities of Lombardy divided, and a considerable number of them firmly attached to the imperial interest. The jealousies long existing between the different classes, and only suspended by the national struggle which terminated at Constance, gave rise to new modifications of interests, and new relations towards the empire. About the year 1200, or perhaps a little later, the two leading parties which divided the cities of Lombardy, and whose mutual animosity—having no general subject of contention—required the association of a name to direct as well as invigorate its prejudices, became distinguished by the celebrated appellations of GUELFS and GHIBELINS; the former adhering to the papal side, the latter to that of the emperor. These names were derived from Germany, and had been the rallying word of faction for more than half a century in that country before they were transported to a still more favourable soil. The Guelfs took their name from a very illustrious family, several of whom had successively been dukes of Bavaria in the tenth and eleventh centuries. The heiress of the

last of these intermarried with a younger son of the house of Este, a noble family settled near Padua, and possessed of great estates on each bank of the lower Po. They gave birth to a second line of Guelfs, from whom the royal house of Brunswick is descended. The name of Ghibelin is derived from a village in Franconia, whence Conrad the Salic came, the progenitor, through females, of the Suabian emperors. At the election of Lothaire in 1125, the Suabian family were disappointed of what they considered almost an hereditary possession; and at this time an hostility appears to have commenced between them and the house of Guelf, who were nearly related to Lothaire. Henry the Proud and his son Henry the Lion, representatives of the latter family, were frequently persecuted by the Suabian emperors; but their fortunes belong to the history of Germany. Meanwhile the elder branch, though not reserved for such glorious destinies as the Guelfs, continued to flourish in Italy; the marquises of Este were by far the most powerful nobles in eastern Lombardy, and about the end of the twelfth century began to be considered as the heads of the church party in their neighbourhood. They were frequently chosen to the office of podestà, or chief magistrate, by the cities of Romagna; and in 1208 the people of Ferrara set the fatal example of sacrificing their freedom for tranquillity, by electing Azzo VII., marquis of Este, as their lord or sovereign.

§ 13. Otho IV. was son of Henry the Lion, and consequently head of the Guelfs. On his obtaining the imperial crown (A.D. 1198), the prejudices of Italian factions were diverted out of their usual channel. He was soon engaged in a quarrel with the pope, whose hostility to the empire was certain, into whatever hands it might fall. In Milan, however, and generally in the cities which had belonged to the Lombard league against Frederic I., hatred of the house of Suabia prevailed more than jealousy of the imperial prerogatives; they adhered to names rather than to principles, and supported a Guelf emperor even against the pope. Terms of this description, having no definite relation to principles which it might be troublesome to learn and defend, are always acceptable to mankind, and have the peculiar advantage of precluding altogether that spirit of compromise and accommodation, by which it is sometimes endeavoured to obstruct their tendency to hate and injure each other. From this time, every city, and almost every citizen, gloried in one of these barbarous denominations. In several cities the imperial party predominated through hatred of their neighbours, who espoused that of the church. Thus the inveterate feuds between Pisa and Florence, Modena and Bologna, Cremona and Milan, threw them into opposite factions. But there was in every one of these a strong party against that which prevailed, and consequently a Guelf

city frequently became Ghibelin, or conversely, according to the fluctuations of the time.

§ 14. The change to which we have adverted in the politics of the Guelf party lasted only during the reign of Otho IV. When the heir of the house of Suabia grew up to manhood, Innocent, who, though his guardian, had taken little care of his interests, as long as he flattered himself with the hope of finding a Guelf emperor obedient, placed the young Frederic at the head of an opposition, composed of cities always attached to his family, and of such as implicitly followed the see of Rome. He met with considerable success both in Italy and Germany, and after the death of Otho, received the imperial crown (A.D. 1212). But he had no longer to expect any assistance from the pope who conferred it. Innocent was dead, and Honorius III., his successor, could not behold without apprehension the vast power of Frederic, supported in Lombardy by a faction which balanced that of the church, and menacing the ecclesiastical territories on the other side, by the possession of Naples and Sicily. This kingdom, feudatory to Rome, and long her firmest ally, was now, by a fatal connexion which she had not been able to prevent, thrown into the scale of her most dangerous enemy. Hence the temporal dominion which Innocent III. had taken so much pains to establish, became a very precarious possession, exposed on each side to the attacks of a power that had legitimate pretensions to almost every province composing it. The life of Frederic II. was wasted in an unceasing contention with the church, and with his Italian subjects, whom she excited to rebellions against him. Without inveighing, like the popish writers, against this prince, certainly an encourager of letters, and endowed with many eminent qualities, we may lay to his charge a good deal of dissimulation: I will not add ambition, because I am not aware of any period in the reign of Frederic, when he was not obliged to act on his defence against the aggression of others. But if he had been a model of virtues, such men as Honorius III., Gregory IX., and Innocent IV., the popes with whom he had successively to contend, would not have given him respite, while he remained master of Naples, as well as the empire.

It was the custom of every pope to urge princes into a crusade, which the condition of Palestine rendered indispensable, or, more properly, desperate. But this great piece of supererogatory devotion had never yet been raised into an absolute duty of their station, nor had even private persons been ever required to take up the cross by compulsion. Honorius III., however, exacted a vow from Frederic, before he conferred upon him the imperial crown, that he would undertake a crusade for the deliverance of Jerusalem. Frederic submitted to this engagement, which perhaps he never designed to keep,

and certainly endeavoured afterwards to evade. Though he became by marriage nominal king of Jerusalem, his excellent understanding was not captivated with so barren a prospect, and at length his delays in the performance of his vow provoked Gregory IX. to issue against him a sentence of excommunication. Such a thunderbolt was not to be lightly regarded; and Frederic sailed, the next year, for Palestine. But having disdained to solicit absolution for what he considered as no crime, the court of Rome was excited to still fiercer indignation against this profanation of a crusade by an excommunicated sovereign. Upon his arrival in Palestine, he received intelligence that the papal troops had broken into the kingdom of Naples. No one could rationally have blamed Frederic, if he had quitted the Holy Land as he found it; but he made a treaty with the Saracens, which, though by no means so disadvantageous as under all the circumstances might have been expected, served as a pretext for new calumnies against him in Europe. The charge of irreligion, eagerly and successfully propagated, he repelled by persecuting edicts against heresy, that do no great honour to his memory, and availed him little at the time. Over his Neapolitan dominions he exercised a rigorous government, rendered perhaps necessary by the levity and insubordination characteristic of the inhabitants, but which tended, through the artful representations of Honorius and Gregory, to alarm and alienate the Italian republics.

A new generation had risen up in Lombardy since the peace of Constance, and the prerogatives reserved by that treaty to the empire were so seldom called into action, that few cities were disposed to recollect their existence. They denominated themselves Guelfs or Ghibelins, according to habit, and out of their mutual opposition, but without much reference to the empire. Those, however, of the former party, and especially Milan, retained their antipathy to the house of Suabia. Though Frederic II. was entitled, as far as established usage can create a right, to the sovereignty of Italy, the Milanese would never acknowledge him, nor permit his coronation at Monza, according to ancient ceremony, with the iron crown of the Lombard kings. The pope fomented, to the utmost of his power, this disaffected spirit, and encouraged the Lombard cities to renew their former league. This, although conformable to a provision in the treaty of Constance, was manifestly hostile to Frederic, and may be considered as the commencement of a second contest between the republican cities of Lombardy and the empire. But there was a striking difference between this and the former confederacy against Frederic Barbarossa. In the league of 1167, almost every city, forgetting all smaller animosities in the great cause of defending the national privileges, contributed its share of exertion to sustain that perilous conflict; and this transient

unanimity in a people so distracted by internal faction as the Lombards, is the surest witness to the justice of their undertaking. Sixty years afterwards, their war against the second Frederic had less of provocation and less of public spirit. It was in fact a party struggle of Guelf and Ghibelin cities, to which the names of the church and the empire gave more of dignity and consistence.

§ 15. The republics of Italy in the thirteenth century were so numerous and independent, and their revolutions so frequent, that it is a difficult matter to avoid confusion in following their history. It will give more arrangement to our ideas, and at the same time illustrate the changes that took place in these little states, if we consider them as divided into four clusters or constellations, not indeed unconnected one with another, yet each having its own centre of motion and its own boundaries. (1). The first of these we may suppose formed of the cities in central Lombardy, between the Sesia and the Adige, the Alps and the Ligurian mountains; it comprehends Milan, Cremona, Pavia, Brescia, Bergamo, Parma, Piacenza, Mantua, Lodi, Alessandria, and several others less distinguished. These were the original seats of Italian liberty, the great movers in the wars of the elder Frederic. Milan was at the head of this cluster of cities, and her influence gave an ascendancy to the Guelf party; she had, since the treaty of Constance, rendered Lodi and Pavia almost her subjects, and was in strict union with Brescia and Piacenza. Parma, however, and Cremona, were unshaken defenders of the empire. (2). In the second class we may place the cities of the march of Verona, between the Adige and the frontiers of Germany. Of these there were but four worth mentioning: Verona, Vicenza, Padua, and Treviso. The citizens of all the four were inclined to the Guelf interests; but a powerful body of rural nobility, who had never been compelled, like those upon the upper Po, to quit their fortresses in the hilly country, or reside within the walls, attached themselves to the opposite denomination. Some of them obtained very great authority in the civil feuds of these four republics; and especially two brothers, Eccelin and Alberic da Romano, of a rich and distinguished family, known for its devotion to the empire. By extraordinary vigour and decision of character, by dissimulation and breach of oaths, by the intimidating effects of almost unparalleled cruelty, Eccelin da Romano became after some years the absolute master of three cities—Padua, Verona, and Vicenza; and the Guelf party, in consequence, was entirely subverted beyond the Adige, during the continuance of his tyranny. (3). Another cluster was composed of the cities in Romagna: Bologna, Imola, Faenza, Ferrara, and several others. Of these Bologna was far the most powerful, and, as no city was more steadily for the interests of the church, the Guelfs usually predominated in this class; to which also the in-

fluence of the house of Este not a little contributed. Modena, though not geographically within the limits of this division, may be classed along with it from her constant wars with Bologna. (4). A fourth class will comprehend the whole of Tuscany, separated almost entirely from the politics of Lombardy and Romagna. Florence headed the Guelf cities in this province, Pisa the Ghibelin. The Tuscan union was formed by Innocent III., and was strongly inclined to the popes; but gradually the Ghibelin party acquired its share of influence; and the cities of Siena, Arezzo, and Lucca shifted their policy, according to external circumstances or the fluctuations of their internal factions. The petty cities in the region of Spoleto and Ancona hardly perhaps deserve the name of republics; and Genoa does not readily fall into any of our four classes, unless her wars with Pisa may be thought to connect her with Tuscany.[3]

§ 16. After several years of transient hostility and precarious truce, the Guelf cities of Lombardy engaged in a regular and protracted war with Frederic II., or more properly with their Ghibelin adversaries. Few events of this contest deserve particular notice. Neither party ever obtained such decisive advantages as had alternately belonged to Frederic Barbarossa and the Lombard confederacy, during the war of the preceding century. A defeat of the Milanese by the emperor, at Corte Nuova, in 1237, was balanced by his unsuccessful siege at Brescia the next year. The Pisans assisted Frederic to gain a great naval victory over the Genoese fleet, in 1241; but he was obliged to rise from the blockade of Parma, which had left the standard of Ghibelinism, in 1248. Ultimately, however, the strength of the house of Suabia was exhausted by so tedious a struggle; the Ghibelins of Italy had their vicissitudes of success; but their country, and even themselves, lost more and more of the ancient connexion with Germany.

In this resistance to Frederic II. the Lombards were much indebted to the constant support of Gregory IX. and his successor Innocent IV.; and the Guelf, or the church party, were used as synonymous terms. These pontiffs bore an unquenchable hatred to the house of Suabia. No concessions mitigated their animosity; no reconciliation was sincere. Whatever faults may be imputed to Frederic, it is impossible for any one, not blindly devoted to the court of Rome, to deny that he was iniquitously proscribed by her

[3] I have taken no notice of Piedmont in this division. The history of that country seems to be less elucidated by ancient or modern writers than that of other parts of Italy. It was at this time divided between the counts of Savoy and marquises of Montferrat. But Asti, Chieri, and Turin, especially the two former, appear to have had a republican form of government. They were, however, not absolutely independent. The only Piedmontese city that can properly be considered as a separate state, in the thirteenth century, was Vercelli; and even there the bishop seems to have possessed a sort of temporal sovereignty.

unprincipled ambition. His real crime was the inheritance of his ancestors, and the name of the house of Suabia. In 1239 he was excommunicated by Gregory IX. To this he was tolerably accustomed by former experience; but the sentence was attended by an absolution of his subjects from their allegiance, and a formal deposition. These sentences were not very effective upon men of vigorous minds, or upon those whose passions were engaged in their cause; but they influenced both those who feared the threatenings of the clergy and those who wavered already as to their line of political conduct. In the fluctuating state of Lombardy the excommunication of Frederic undermined his interests even in cities like Parma, that had been friendly, and seemed to identify the cause of his enemies with that of religion—a prejudice artfully fomented by means of calumnies propagated against himself, and which the conduct of such leading Ghibelins as Eccelin, who lived in an open defiance of God and man, did not contribute to lessen. In 1240, Gregory proceeded to publish a crusade against Frederic, as if he had been an open enemy to religion; which he revenged by putting to death all the prisoners he made who wore the cross. There was one thing wanting to make the expulsion of the emperor from the Christian commonwealth more complete. Gregory IX. accordingly projected, and Innocent IV. carried into effect, the convocation of a general council (A.D. 1245). This was held at Lyons, an imperial city, but over which Frederic could no longer retain his supremacy. In this assembly, where one hundred and forty prelates appeared, the question whether Frederic ought to be deposed was solemnly discussed; he submitted to defend himself by his advocates: and the pope in the presence, though without formally collecting the suffrages of the council, pronounced a sentence, by which Frederic's excommunication was renewed, the empire and all his kingdoms taken away, and his subjects absolved from their fidelity. This is the most pompous act of usurpation in all the records of the church of Rome; and the tacit approbation of a general council seemed to incorporate the pretended right of deposing kings, which might have passed as a mad vaunt of Gregory VII. and his successors, with the established faith of Christendom.

§ 17. Upon the death of Frederic II. in 1250, he left to his son Conrad a contest to maintain for every part of his inheritance, as well as for the imperial crown. But the vigour of the house of Suabia was gone; Conrad was reduced to fight for the kingdom of Naples, the only succession which he could hope to secure against the troops of Innocent IV., who still pursued his family with implacable hatred, and claimed that kingdom as forfeited to its feudal superior, the Holy See. After Conrad's premature death, which happened in 1254, the throne was filled by his illegitimate brother

Manfred, who retained it by his bravery and address, in despite of the popes, till they were compelled to call in the assistance of a more powerful arm.

The death of Conrad brings to a termination that period in Italian history which we have described as nearly co-extensive with the greatness of the house of Suabia. It is perhaps upon the whole the most honourable to Italy; that in which she displayed the most of national energy and patriotism. A Florentine or Venetian may dwell with pleasure upon later times, but a Lombard will cast back his eye across the desert of centuries, till it reposes on the field of Legnano.

§ 18. The successful resistance of the Lombard cities to such princes as both the Frederics must astonish a reader who brings to the story of these middle ages notions derived from modern times. But when we consider not only the ineffectual control which could be exerted over a feudal army, bound only to a short term of service, and reluctantly kept in the field at its own cost, but the peculiar distrust and disaffection with which many German princes regarded the house of Suabia, less reason will appear for surprise. Nor did the kingdom of Naples, almost always in agitation, yield any material aid to the second Frederic. The main cause, however, of that triumph which attended Lombardy was the intrinsic energy of a free government. From the eleventh century, when the cities became virtually republican, they put out those vigorous shoots which are the growth of freedom alone. Their domestic feuds, their mutual wars, the fierce assaults of their national enemies, checked not their strength, their wealth, or their population; but rather as the limbs are nerved by labour and hardship, the republics of Italy grew in vigour and courage through the conflicts they sustained.

We have few authentic testimonies as to the domestic improvement of the free Italian cities, while they still deserve the name. But we may perceive by history that their power and population, according to their extent of territory, were almost incredible. In Galvaneus Flamma, a Milanese writer, we find a curious statistical account of that city in 1288, which, though of a date about thirty years after its liberties had been overthrown by usurpation, must be considered as implying a high degree of previous advancement, even if we make allowance, as probably we should, for some exaggeration. The inhabitants are reckoned at 200,000; the private houses 13,000; the nobility alone dwelt in sixty streets; 8000 gentlemen or heavy cavalry (milites) might be mustered from the city and its district, and 240,000 men capable of arms: a force sufficient, the writer observes, to crush all the Saracens. There were in Milan six hundred notaries, two hundred physicians, eighty schoolmasters, and fifty transcribers of manuscripts. In the district were one

hundred and fifty castles with adjoining villages. At this period the territory of Milan was not perhaps more extensive than the county of Surrey; it was bounded at a little distance, on almost every side, by Lodi, or Pavia, or Bergamo, or Como. It is possible, however, that Flamma may have meant to include some of these as dependencies of Milan, though not strictly united with it. How flourishing must the state of cultivation have been in such a country, which not only drew no supplies from any foreign land, but exported part of her own produce! It was in the best age of their liberties, immediately after the battle of Legnano, that the Milanese commenced the great canal which conducts the waters of the Tesino to their capital, a work very extraordinary for that time. During the same period the cities gave proofs of internal prosperity that in many instances have descended to our own observation in the solidity and magnificence of their architecture. Ecclesiastical structures were perhaps more splendid in France and England; but neither country could pretend to match the palaces and public buildings, the streets flagged with stone, the bridges of the same material, or the commodious private houses of Italy.

The courage of these cities was wrought sometimes to a tone of insolent defiance through the security inspired by their means of defence. From the time of the Romans to that when the use of gunpowder came to prevail, little change was made, or perhaps could be made, in that part of military science which relates to the attack and defence of fortified places. We find precisely the same engines of offence; the cumbrous towers, from which arrows were shot at the besieged, the machines from which stones were discharged, the battering-rams which assailed the walls, and the basket-work covering (the vinea or testudo of the ancients, and the gattus or chat-chateil of the middle ages), under which those who pushed the battering engines were protected from the enemy. On the other hand, a city was fortified with a strong wall of brick or marble, with towers raised upon it at intervals, and a deep moat in front. Sometimes the antemural or barbacan was added; a rampart of less height, which impeded the approach of the hostile engines. The gates were guarded with a portcullis; an invention which, as well as the barbacan, was borrowed from the Saracens. With such advantages for defence, a numerous and intrepid body of burghers might not unreasonably stand at bay against a powerful army; and as the consequences of capture were most terrible, while resistance was seldom hopeless, we cannot wonder at the desperate bravery of so many besieged towns. Indeed it seldom happened that one of considerable size was taken, except by famine or treachery.

§ 19. Of the government which existed in the republics of Italy

during the twelfth and thirteenth centuries, no definite sketch can be traced. The magistrates elected in almost all of them, when they first began to shake off the jurisdiction of their count or bishop, were styled *Consuls;* a word very expressive to an Italian ear, since, in the darkest ages, tradition must have preserved some acquaintance with the republican government of Rome. The consuls were always annual; and their office comprehended the command of the national militia in war, as well as the administration of justice and preservation of public order; but their number was various—two, four, six, or even twelve. In their legislative and deliberative councils the Lombards still copied the Roman constitution, or perhaps fell naturally into the form most calculated to unite sound discretion with the exercise of popular sovereignty. A council of trust and secrecy (della credenza) was composed of a small number of persons, who took the management of public affairs, and may be called the ministers of the state. But the decision upon matters of general importance, treaties of alliance or declarations of war, the choice of consuls or ambassadors, belonged to the general council. This appears not to have been uniformly constituted in every city; and according to its composition the government was more or less democratical. An ultimate sovereignty, however, was reserved to the mass of the people; and a parliament or general assembly was held to deliberate on any change in the form of constitution.

About the end of the twelfth century a new and singular species of magistracy was introduced into the Lombard cities. During the tyranny of Frederic I. he had appointed officers of his own, called *Podestàs*, instead of the elective consuls. It is remarkable that this memorial of despotic power should not have excited insuperable alarm and disgust in the free republics. But, on the contrary, they almost universally, after the peace of Constance, revived an office which had been abrogated when they first rose in rebellion against Frederic. From experience, as we must presume, of the partiality which their domestic factions carried into the administration of justice, it became a general practice to elect, by the name of podestà, a citizen of some neighbouring state as their general, their criminal judge, and preserver of the peace. The last duty was frequently arduous, and required a vigorous as well as an upright magistrate. Offences against the laws and security of the commonwealth were or being the middle ages as often, perhaps more often, committed by district h and powerful than by the inferior class of society. The writer obs of a magistrate against a powerful offender was not pro- six hundred thout danger of tumult; it was seldom executed without and fifty trans victed criminal was not, as at present, the stricken those disgrace his kindred shrink from participating,

and whose memory they strive to forget. The law was to be enforced not against an individual, but a family—not against a family, but a faction—not perhaps against a local faction, but the whole Guelf or Ghibelin name, which might become interested in the quarrel. The podestà was to arm the republic against her refractory citizen; his house was to be besieged and razed to the ground, his defenders to be quelled by violence: and thus the people, become familiar with outrage and homicide under the command of their magistrates, were more disposed to repeat such scenes at the instigation of their passions.

The podestà was sometimes chosen in a general assembly, sometimes by a select number of citizens. His office was annual, though prolonged in peculiar emergencies. He was invariably a man of noble family, even in those cities which excluded their own nobility from any share in the government. He received a fixed salary, and was compelled to remain in the city after the expiration of his office for the purpose of answering such charges as might be adduced against his conduct. He could neither marry a native of the city, nor have any relation resident within the district, nor even, so great was their jealousy, eat or drink in the house of any citizen. The authority of these foreign magistrates was not by any means alike in all cities. In some he seems to have superseded the consuls, and commanded the armies in war. In others, as Milan and Florence, his authority was merely judicial. We find in some of the old annals the years headed by the names of the podestàs, as by those of the consuls in the history of Rome.

§ 20. The effects of the evil spirit of discord that had so fatally breathed upon the republics of Lombardy were by no means confined to national interests, or to the grand distinction of Guelf and Ghibelin. Dissensions glowed in the heart of every city, and as the danger of foreign war became distant, these grew more fierce and unappeasable. The feudal system had been established upon the principle of territorial aristocracy; it maintained the authority, it encouraged the pride of rank. Hence, when the rural nobility were compelled to take up their residence in cities, they preserved the ascendancy of birth and riches. From the natural respect which is shown to these advantages, all offices of trust and command were shared amongst them; it is not material whether this were by positive right or continual usage. A limited aristocracy of this description, where the inferior citizens possess the right of selecting their magistrates by free suffrage from a numerous body of nobles, is not among the worst forms of government, and affords no contemptible security against oppression and anarchy. This regimen appears to have prevailed in most of the Lombard cities during the eleventh and twelfth centuries; but gradually

dissensions arose between the nobility and the plebeian burgesses, which at length broke out into civil war in most of the Italian cities. About the year 1220 the question of aristocratical or popular command was tried by arms in Milan, Piacenza, Modena, Cremona, and Bologna.

There is a natural preponderance in the popular scale, which, in a fair trial, invariably gains on that of the less numerous class. The artisans, who composed the bulk of the population, were arranged in companies according to their occupations. Sometimes, as at Milan, they formed separate associations, with rules for their internal government. The clubs, called at Milan la Motta and la Credenza, obtained a degree of weight not at all surprising to those who consider the spirit of mutual attachment which belongs to such fraternities; and we shall see a more striking instance of this hereafter in the republic of Florence. To so formidable and organized a democracy the nobles opposed their numerous families, the generous spirit that belongs to high birth, the influence of wealth and established name. The members of each distinguished family appear to have lived in the same street; their houses were fortified with square massive towers of commanding height, and wore the semblance of castles within the walls of a city. Brancaleon, the famous senator of Rome, destroyed one hundred and forty of these domestic entrenchments, which were constantly serving the purpose of civil broils and outrage. Expelled, as frequently happened, from the city, it was in the power of the nobles to avail themselves of their superiority in the use of cavalry, and to lay waste the district, till weariness of an unprofitable contention reduced the citizens to terms of compromise. But when all these resources were ineffectual, they were tempted or forced to sacrifice the public liberty to their own welfare, and lent their aid to a foreign master or a domestic usurper.

In all these scenes of turbulence, whether the contest was between the nobles and people, or the Guelf and Ghibelin factions, no mercy was shown by the conquerors. The vanquished lost their homes and fortunes, and, retiring to other cities of their own party, waited for the opportunity of revenge. In a popular tumult the houses of the beaten side were frequently levelled to the ground—not perhaps from a sort of senseless fury, which Muratori inveighs against, but on account of the injury which these fortified houses inflicted upon the lower citizens. The most deadly hatred is that which men exasperated by proscription and forfeiture bear to their country; nor have we need to ask any other cause for the calamities of Italy than the bitterness with which an unsuccessful faction was thus pursued into banishment. When the Ghibelins were returning to Florence, after a defeat given to the prevailing party in 1260, it was proposed

among them to demolish the city itself which had cast them out; and, but for the persuasion of one man, Farinata degl' Uberti, their revenge would have thus extinguished all patriotism.[4] It is to this that we must ascribe their proneness to call in assistance from every side, and to invite any servitude for the sake of retaliating upon their adversaries.

Independently of the two leading differences which embattled the citizens of an Italian state, their form of government and their relation to the empire, there were others more contemptible though not less mischievous. In every city the quarrels of private families became the foundation of general schism, sedition, and proscription. Sometimes these blended themselves with the grand distinctions of Guelf and Ghibelin; sometimes they were more nakedly conspicuous. Thus an outrage committed at Pistoja in 1300 split the inhabitants into the parties of Bianchi and Neri; and these, spreading to Florence, created one of the most virulent divisions which annoyed that republic. In one of the changes which attended this little ramification of faction, Florence expelled a young citizen who had borne offices of magistracy, and espoused the cause of the Bianchi. Dante Alighieri retired to the courts of some Ghibelin princes, where his sublime and inventive mind, in the gloom of exile, completed that original combination of vast and extravagant conceptions with keen political satire, which has given immortality to his name, and even lustre to the petty contests of his time.

In the earlier stages of the Lombard republics their differences, as well mutual as domestic, had been frequently appeased by the mediation of the emperors; and the loss of this salutary influence may be considered as no slight evil attached to that absolute emancipation which Italy attained in the thirteenth century. The popes sometimes endeavoured to interpose an authority which, though not quite so direct, was held in greater veneration; and if their own tempers had been always pure from the selfish and vindictive passions of those whom they influenced, might have produced more general and permanent good. But they considered the Ghibelins as their own peculiar enemies, and the triumph of the opposite faction as the church's best security. Gregory X. and Nicholas III., whether from benevolent motives, or because their jealousy of Charles of Anjou, while at the head of the Guelfs, suggested the revival of a Ghibelin party as a counterpoise to his power, distinguished their pontificate by enforcing measures of reconciliation in all Italian cities; but their successors returned to the ancient policy and prejudices of Rome.

[4] I cannot forgive Dante for placing this patriot trà l'anime più nere, in one of the worst regions of his Inferno. The conversation of the poet with Farinata, cant. 10, is very fine, and illustrative of Florentine history.

PART II.

§ 1. State of Italy after the Extinction of the House of Suabia. § 2. Conquest of Naples by Charles of Anjou. § 3. The Lombard Republics become severally subject to Princes or Usurpers. § 4. The Visconti of Milan. Their Aggrandizement. § 5. Decline of the Imperial Authority over Italy. § 6. Internal State of Rome. § 7. Rienzi. § 8. Florence. § 9. Her forms of Government. Constitution of 1266. § 10. Struggles between the nobility and the people. The Ordinances of Justice. § 11. Despotism of the Duke of Athens. § 12. Rule of the Guelf Society. § 13. Revolutions in Florence. § 14. Territory of Florence. § 15. Conquest of Pisa. Pisa: Its Commerce, Naval Wars with Genoa, and Decay. § 16. Genoa. Her Contentions with Venice. War of Chioggio. § 17. Government of Genoa. § 18. Venice. Her Origin and Prosperity. § 19. Venetian Government. Its Vices. § 20. Territorial Conquests of Venice. § 21. Military System of Italy. § 22. Companies of Adventure: 1. Foreign: Guarnieri, Hawkwood—and 2. Native: Braccio, Sforza. § 23. Improvements in Military Service. Arms, offensive and defensive. Invention of Gunpowder. § 24. Naples. Sicilian Vespers. First Line of Anjou. § 25. Charles II. Robert. Joanna I. § 26. Ladislaus. § 27. Joanna II. § 28. Alfonso, King of Naples. § 29. State of Italy during the Fifteenth Century. § 30. Florence. Rise of the Medici, and Ruin of their Adversaries. § 31. Lorenzo de' Medici. § 32. Pretensions of Charles VIII. to Naples.

§ 1. FROM the death of Frederic II. in 1250, to the invasion of Charles VIII. in 1494, a long and undistinguished period occurs, which it is impossible to break into any natural divisions. It is an age in many respects highly brilliant: the age of poetry and letters, of art, and of continual improvement. Italy displayed an intellectual superiority in this period over the Transalpine nations which certainly had not appeared since the destruction of the Roman Empire. But her political history presents a labyrinth of petty facts so obscure and of so little influence as not to arrest the attention, so intricate and incapable of classification as to leave only confusion in the memory. The general events that are worthy of notice, and give a character to this long period, are the establishment of small tyrannies upon the ruins of republican government in most of the cities, the gradual rise of three considerable states, Milan, Florence, and Venice, the naval and commercial rivalry between the last city and Genoa, the final acquisition by the popes of their present territorial sovereignty, and the revolutions in the kingdom of Naples under the lines of Anjou and Aragon.

After the death of Frederic II. the distinctions of Guelf and Ghibelin became destitute of all rational meaning. The most odious crimes were constantly perpetrated, and the utmost miseries endured, for an echo and a shade that mocked the deluded enthusiasts of faction. None of the Guelfs denied the nominal but indefinite

sovereignty of the empire; and beyond a name the Ghibelins themselves would have been little disposed to carry it. But the virulent hatreds attached to these words grew continually more implacable, till ages of ignominy and tyrannical government had extinguished every energetic passion in the bosoms of a degraded people.

§ 2. In the fall of the house of Suabia, Rome appeared to have consummated her triumph. She gained a still further ascendancy by the change of dynasty in Naples. This kingdom had been occupied, after the death of Conrad, by his illegitimate brother, Manfred, in the behalf, as he at first pretended, of young Conradin the heir, but in fact as his own acquisition. He was a prince of an active and firm mind, well fitted for his difficult post, to whom the Ghibelins looked up as their head, and as the representative of his father. It was a natural object with the popes, independently of their ill-will towards a son of Frederic II., to see a sovereign upon whom they could better rely placed upon so neighbouring a throne. Charles count of Anjou, brother of St. Louis, was tempted by them to lead a crusade (for as such all wars for the interest of Rome were now considered) against the Neapolitan usurper (A.D. 1265). The chance of a battle decided the fate of Naples, and had a striking influence upon the history of Europe for several centuries. Manfred was killed in the field: but there remained the legitimate heir of the Frederics, a boy of seventeen years old, Conradin, son of Conrad, who rashly, as we say at least after the event, attempted to regain his inheritance. He fell into the hands of Charles, and the voice of those rude ages, as well as of a more enlightened posterity, has united in branding with everlasting infamy the name of that prince, who did not hesitate to purchase the security of his own title by the public execution of an honourable competitor, or rather a rightful claimant of the throne he had usurped (A.D. 1268). With Conradin the house of Suabia was extinguished; but Constance, the daughter of Manfred, had transported *his* right to Sicily and Naples into the house of Aragon, by her marriage with Peter III.

This success of a monarch selected by the Roman pontiffs as their particular champion turned the tide of faction over all Italy. He expelled the Ghibelins from Florence, of which they had a few years before obtained a complete command by means of their memorable victory upon the river Arbia. After the fall of Conradin that party was everywhere discouraged. Germany held out small hopes of support, even when the imperial throne, which had long been vacant, should be filled by one of her princes. The populace were in almost every city attached to the church and to the name of Guelf; the kings of Naples employed their arms, and the popes their excommunications; so that for the remainder of the thirteenth

century the name of Ghibelin was a term of proscription in the majority of Lombard and Tuscan republics. Charles was constituted by the pope vicar-general in Tuscany. This was a new pretension of the Roman pontiffs, to name the lieutenants of the empire during its vacancy, which indeed could not be completely filled up without their consent. It soon, however, became evident that he aimed at the sovereignty of Italy. Some of the popes themselves, Gregory X. and Nicholas IV., grew jealous of their own creature.

§ 3. Almost all the Lombard republics had, by force, or stratagem, or free consent, already fallen under the yoke of some leading citizen, who became the lord (signore) or, in the German sense, tyrant of his country. The first instance of a voluntary delegation of sovereignty was that of Ferrara, which placed itself under the lord of Este. Eccelin made himself truly the tyrant of the cities beyond the Adige; and such experience ought naturally to have inspired the Italians with more universal abhorrence of despotism. But every danger appeared trivial in the eyes of exasperated factions when compared with the ascendancy of their adversaries. Weary of unceasing and useless contests, in which ruin fell with an alternate but equal hand upon either party, liberty withdrew from a people who disgraced her name; and the tumultuous, the brave, the intractable Lombards, became eager to submit themselves to a master, and patient under the heaviest oppression. Or, if tyranny sometimes overstepped the limits of forbearance, and a seditious rising expelled the reigning prince, it was only to produce a change of hands, and transfer the impotent people to a different, and perhaps a worse, despotism. In many cities not a conspiracy was planned, not a sigh was breathed, in favour of republican government, after once they had passed under the sway of a single person. The progress, indeed, was gradual though sure, from limited to absolute, from temporary to hereditary power, from a just and conciliating rule to extortion and cruelty. But before the middle of the fourteenth century, at the latest, all those cities which had spurned at the faintest mark of submission to the emperors lost even the recollection of self-government, and were bequeathed, like an undoubted patrimony, among the children of their new lords. Such is the progress of usurpation, and such the vengeance that Heaven reserves for those who waste in licence and faction its first of social blessings, liberty.

§ 4. The city most distinguished in both wars against the house of Suabia, for an unconquerable attachment to republican institutions, was the first to sacrifice them in a few years after the death of Frederic II. Milan had for a considerable time been agitated by civil dissensions between the nobility and inferior citizens. These parties were pretty equally balanced, and their success was conse-

quently alternate. Each had its own podestà, as a party-leader, distinct from the legitimate magistrate of the city. In consequence of the crime of a nobleman, who had murdered one of his creditors, the two parties took up arms in 1257. A civil war, of various success, and interrupted by several pacifications, which in that unhappy temper could not be durable, was terminated in about two years by the entire discomfiture of the aristocracy, and by the election of Martin della Torre as chief and lord (capitano e signore) of the people. Though the Milanese did not probably intend to renounce the sovereignty resident in their general assemblies, yet they soon lost the republican spirit: five in succession of the family della Torre might be said to reign in Milan; each indeed by a formal election, but with an implied recognition of a sort of hereditary title. Twenty years afterwards the Visconti, a family of opposite interests, supplanted the Torriani at Milan; and the rivalry between these great houses was not at an end till the final establishment of Matteo Visconti in 1313; but the people were not otherwise considered than as aiding by force the one or other party, and at most deciding between the pretensions of their masters.

The vigour and concert infused into the Guelf party by the successes of Charles of Anjou was not very durable. That prince was soon involved in a protracted and unfortunate quarrel with the kings of Aragon, to whose protection his revolted subjects in Italy had recurred. On the other hand, several men of energetic character retrieved the Ghibelin interests in Lombardy, and even in the Tuscan cities. The Visconti were acknowledged heads of that faction. A family early established as lords of Verona, the della Scala, maintained the credit of the same denomination between the Adige and the Adriatic. The inferior tyrants were partly Guelf, partly Ghibelin, according to local revolutions; but upon the whole the latter acquired a gradual ascendancy. Those, indeed, who cared for the independence of Italy, or for their own power, had far less to fear from the phantom of imperial prerogatives, long intermitted and incapable of being enforced, than from the new race of foreign princes whom the church had substituted for the house of Suabia. The Angevin kings of Naples were sovereigns of Provence, and from thence easily encroached upon Piedmont, and threatened the Milanese. Robert, the third of this line, almost openly aspired, like his grandfather Charles I., to a real sovereignty over Italy. His offers of assistance to Guelf cities in war were always coupled with a demand of the sovereignty. Many yielded to his ambition; and even Florence twice bestowed upon him a temporary dictatorship. In 1314 he was acknowledged lord of Lucca, Florence, Pavia, Alessandria, Bergamo, and the cities of Romagna. In 1318 the Guelfs of Genoa found no other resource against the Ghibelin emigrants